

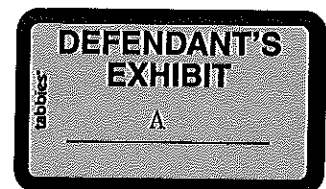
ALVERENE BUTLER

v.

**ALABAMA DEPARTMENT OF TRANSPORTATION, et
al.**

ALVERENE BUTLER

January 5, 2007



**Reagan Reporters, LLC
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ALVERENE BUTLER - 1/5/2007

<p>1</p> <p>IN THE UNITED STATES DISTRICT CIRCUIT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION</p> <p>ALVERENE BUTLER, Plaintiff,</p> <p>vs. CASE NO. 2:06-CV-278-MEF</p> <p>ALABAMA DEPARTMENT OF TRANSPORTATION, et al., Defendants.</p> <p style="text-align: center;">* * * * *</p> <p style="text-align: center;">DEPOSITION OF</p> <p style="text-align: center;">ALVERENE BUTLER,</p> <p>taken pursuant to notice and stipulation on behalf of the Plaintiff, and the ALABAMA DEPARTMENT OF TRANSPORTATION, 1409 Coliseum Boulevard, Room K-101, Montgomery, Alabama 36130-3050, before DAWN A. GOODMAN, Certified Shorthand Reporter and Notary Public in and for the State of Alabama at Large, on Friday, January 5, 2007, commencing at 11:00 o'clock a.m.</p>	<p>3</p> <p>1 ALSO PRESENT:</p> <p>2 Todd Jackson</p> <p>3 Mark Waits</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
<p>2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 JAY LEWIS, Esquire</p> <p>5 847 South McDonough Street</p> <p>6 Suite 100</p> <p>7 P.O. Box 5059</p> <p>8 Montgomery, Alabama 36104</p> <p>9</p> <p>10 FOR THE DEFENDANTS:</p> <p>11 HARRY LYLES, Esquire</p> <p>12 Alabama Department of Transportation</p> <p>13 1409 Coliseum Boulevard</p> <p>14 Room K-101</p> <p>15 Montgomery, Alabama 36130-3050</p> <p>16</p> <p>17 H. MITCHELL ALTON, III, Esquire</p> <p>18 Alabama Department of Transportation</p> <p>19 1409 Coliseum Boulevard</p> <p>20 Room K-101</p> <p>21 Montgomery, Alabama 36130-3050</p> <p>22</p> <p>23</p>	<p>4</p> <p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and agreed by</p> <p>3 and between counsel representing the parties</p> <p>4 that the Deposition of Alverene Butler is taken</p> <p>5 pursuant to notice and stipulation on behalf of</p> <p>6 the Defendant; that all formalities with</p> <p>7 respect to procedural requirements are waived;</p> <p>8 that said deposition may be taken before DAWN</p> <p>9 A. GOODMAN, Certified Shorthand Reporter and</p> <p>10 Notary Public in and for the State of Alabama</p> <p>11 at Large, without the formality of a</p> <p>12 commission; that objections to questions, other</p> <p>13 than objections as to the form of the</p> <p>14 questions, need not be made at this time, but</p> <p>15 may be reserved for a ruling at such time as</p> <p>16 the deposition may be offered in evidence or</p> <p>17 used for any other purpose as provided for by</p> <p>18 the Civil Rules of Procedure for the State of</p> <p>19 Alabama.</p> <p>20 It is further stipulated and agreed by</p> <p>21 and between counsel representing the parties in</p> <p>22 this case that the filing of the Deposition of</p> <p>23 Alverene Butler is hereby waived and that said</p>

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<p>5</p> <p>1 deposition may be introduced at the trial of 2 this case or used in any other manner by either 3 party hereto provided for by the Statute, 4 regardless of the waiving of the filing of 5 same. 6 It is further stipulated and agreed by 7 and between the parties hereto and the witness 8 that the signature of the witness to this 9 deposition is hereby waived. 10 11 * * * * * 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p>7</p> <p>1 5 Two-page letter, dated December 71 2 30, 2004, from L. Daniel Morris, 3 Jr., to The Honorable Terry Everett 4 5 6 Two-page letter, dated October 69 6 8, 2004, from L. Daniel Morris, 7 Jr., to Mr. Tommy Flowers 8 9 7 Omitted 10 11 8 Omitted 12 13 9 Nine-page document, dated 11 14 June 8, 2006, entitled First 15 Amended Complaint 16 17 18 19 20 21 22 23</p>
<p>6</p> <p>1 INDEX 2 Page 3 Examination by Mr. Lyles 8 4 Examination by Mr. Lewis 124 5 INDEX 6 For the Defendants: 7 No. Page 8 1 Omitted 9 10 2 Six-page document, dated 65 11 September 8, 2004, from 12 John T. Robertson, IV., Esquire, 13 entitled Hearing conducted 14 at Offices of ALDOT, Central 15 Office 16 3 Omitted 17 18 4 Two-page letter, dated April 13, 41 19 2005, from Patrick T. Jackson 20 to Ms. Alverene Butler, EA II/III 21 22 23</p>	<p>8</p> <p>1 PROCEEDINGS 2 THE COURT REPORTER: Did counsel 3 want the usual stipulations? 4 MR. LYLES Yes, ma'am, please. 5 MR. LEWIS: Yes. 6 7 (ALVERENE BUTLER, of lawful 8 age, having been duly sworn, 9 testified as follows:) 10 11 EXAMINATION 12 13 BY MR. LYLES: 14 Q. (By Mr. Lyles) Okay. For the record, 15 please state your full name. 16 A. Alverene Dixon Butler. 17 Q. All right. Ms. Butler, one of the things 18 that we usually ask folks about in these 19 cases is, due to the location of the 20 court and the area from which they pick a 21 jury, we will ask for all of the 22 relatives in an over-several-county area. 23 I found it usually takes a lot of time.</p>

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<p>9</p> <p>1 What I would like to do, if it's all 2 right with your counsel, if you could 3 make me a list of folks you are related 4 to and give it to your lawyer and he will 5 forward it to me. 6 A. Okay. 7 MR. LYLES: We've already talked 8 about that. 9 Q. (By Mr. Lyles) Great. Thank you, ma'am. 10 Now, Ms. Butler, one thing, 11 that I'm not as organized as your lawyer, 12 so I'm going to be kind of jumping around 13 from one subject to another, as I can 14 remember them. What I am going to try 15 to do is, we are going to go through your 16 Complaint so I can understand exactly 17 what we are here about. Then after that, 18 we will go back and talk about some of 19 the things that we've heard yesterday in 20 testimony. Then I may get into some 21 other areas after that. 22 The first thing I want to do 23 is show you what I've marked as Exhibit</p>	<p>11</p> <p>1 A. That's fine. 2 Q. All right. 3 A. This is mine. 04383. 4 Q. Okay. That is also in your charge; is 5 that right? 6 A. Yes. 7 Q. All right. Now, let's take a look at 8 your Amended Complaint. And that's No. 9 9 that you have got there in front of you. 10 (The referred-to document was 11 marked for identification as 12 Defendants' Exhibit No. 9) 13 Q. (By Mr. Lyles) As I understand it, this 14 lawsuit was filed against the ALDOT 15 obviously and, then, three people. Those 16 three people are Mark T. Waits, Patrick 17 T. Jackson, and Joe McInnis; is that 18 right? 19 A. Correct. 20 Q. And Mr. McInnis is sued in his official 21 capacity because he is like the head of 22 the Department, and he would have to 23 approve any relief. Mr. Waits -- let me</p>
<p>10</p> <p>1 9. And I want to make sure that that is 2 a copy of the Complaint that we are 3 about. Take your time. Just take a 4 moment to look through it. Does that 5 appear to be what we are in the lawsuit 6 about? 7 A. Okay. 8 Q. Hold onto that. We will chat about that 9 in just a moment. 10 Also, I've got two EEOC 11 charges here. I want to make sure that 12 these are the ones that you filed. I 13 will represent to you that they appear to 14 be an affidavit and so forth. If you 15 want to take a look at them to make sure 16 they are on the same page. I've got 17 different numbers. Just glance at that 18 and tell me the number of that one, the 19 number is up here -- and that is indeed 20 your charge? 21 Q. Okay. 22 A. This is 05221. 23 Q. Um-hum.</p>	<p>12</p> <p>1 ask you this: Are these gentlemen seated 2 over to my left, is that Mr. Waits and 3 Mr. Jackson? 4 A. Yes. 5 Q. Okay. And these two gentlemen, it's your 6 testimony as we sit here today, that Mr. 7 Waits is a racist? 8 A. Yes. 9 Q. And Mr. Jackson is also a racist? 10 A. Yes. 11 Q. Okay. That they also retaliated against 12 you for some earlier filings or 13 complaints; is that right? 14 A. Yes. 15 Q. Okay. If you will, let's look at Page 6 16 of your Complaint. It says, "Plaintiff 17 was qualified for a promotion from EA to 18 CE on two separate occasions." The first 19 thing I'm going to ask you, to make sure 20 I understand it, EA is Engineering 21 Assistant; is that right? 22 A. Yes. What number are you? 23 Q. I'm sorry. Paragraph 34. You were an EA</p>

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<p style="text-align: right;">13</p> <p>1 II/III; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. The CE is what?</p> <p>4 A. The same -- it's a Civil Engineer. Same</p> <p>5 thing as TT is now.</p> <p>6 Q. Okay. And your contention is that you</p> <p>7 were qualified to be promoted to a CE on</p> <p>8 two separate times but, for the racial</p> <p>9 animosity of these gentlemen, that you</p> <p>10 did not get those jobs; is that right?</p> <p>11 A. Correct.</p> <p>12 Q. Now, how long have you been on the CE</p> <p>13 register, to the best of your</p> <p>14 knowledge?</p> <p>15 A. I'm not sure.</p> <p>16 Q. Okay.</p> <p>17 A. Approximately about four years.</p> <p>18 Q. Okay. Do you recall how many</p> <p>19 applications you submitted for that</p> <p>20 position? I know some jobs you have to</p> <p>21 periodically resubmit.</p> <p>22 A. Right. I'm not sure.</p> <p>23 Q. Okay. But, to the best of your</p>	<p style="text-align: right;">15</p> <p>1 A. Black.</p> <p>2 Q. Okay. Now, on Paragraph 37 through 49,</p> <p>3 you talk about you wanted to be promoted</p> <p>4 to a job in November 2005, and you</p> <p>5 applied for it. Your application was</p> <p>6 rejected and the promotion went to a</p> <p>7 member of nonprotected group, white.</p> <p>8 "Alternatively, the promotion went to a</p> <p>9 person who has filed no complaints for</p> <p>10 sexual harassment."</p> <p>11 First, if you will, tell me</p> <p>12 what job that was that was open in</p> <p>13 November 2005.</p> <p>14 A. It was also a TT position.</p> <p>15 Q. TT, which used to be CE?</p> <p>16 A. Right.</p> <p>17 Q. Okay. You applied for that job, felt</p> <p>18 like you should have been -- and you</p> <p>19 wanted that job; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. It says your application was</p> <p>22 rejected. Who rejected your</p> <p>23 application?</p>
<p style="text-align: right;">14</p> <p>1 recollection as we sit here today, you</p> <p>2 have indeed submitted applications for</p> <p>3 CE?</p> <p>4 A. Yes.</p> <p>5 Q. Down in Paragraph 38, it says that you</p> <p>6 contend you were treated differently from</p> <p>7 a similarly situated member of a</p> <p>8 nonprotected group, a white female. Do</p> <p>9 you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Based on yesterday's testimony, I'm</p> <p>12 assuming that is the lady Karen Stacey</p> <p>13 that was deposed yesterday; is that</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. Is there anybody else -- any other white</p> <p>17 females that you say you were treated</p> <p>18 differently than?</p> <p>19 A. No.</p> <p>20 Q. Okay. Now, is it because you are a black</p> <p>21 female, or because you are black, or</p> <p>22 because you are a female? Which of those</p> <p>23 things?</p>	<p style="text-align: right;">16</p> <p>1 A. I'm not sure.</p> <p>2 Q. Okay. Did you get a letter saying it was</p> <p>3 rejected?</p> <p>4 A. No.</p> <p>5 Q. How do you know it was rejected?</p> <p>6 A. I wasn't even called for an interview.</p> <p>7 Q. It says the promotion went to a member of</p> <p>8 a nonprotected group. Who got that</p> <p>9 promotion?</p> <p>10 A. They called in Karen Stacey.</p> <p>11 Q. Karen Stacey. They called her in. Who</p> <p>12 called her in?</p> <p>13 A. I'm not sure.</p> <p>14 Q. Okay. Did she get that promotion?</p> <p>15 A. Yes, but she declined it.</p> <p>16 Q. Okay. So it was offered to her?</p> <p>17 A. Yes.</p> <p>18 Q. All right. It says, "The promotion went</p> <p>19 to a person who filed no complaints of</p> <p>20 sexual harassment." You are talking</p> <p>21 about Karen Stacey on that; is that</p> <p>22 right?</p> <p>23 A. Yes.</p>

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<p>17</p> <p>1 Q. What you mean by that is, she may not 2 have ended up with that job, but if she 3 wanted it, she could have it; is that 4 right? 5 A. Yes. 6 Q. Okay. How did you know? 7 A. She personally told me. 8 Q. She told you. And when did that take 9 place? 10 A. November. 11 Q. November? 12 A. 2005. 13 Q. Okay. It goes on to say that you were 14 discharged from your job; working 15 conditions became so intolerable you 16 couldn't take it anymore. Is that 17 basically it? 18 A. Yes. 19 Q. Did Karen tell you who offered her that 20 position? 21 A. I don't recall. 22 Q. Okay. And as to whether or not she has 23 ever filed a complaint of sexual</p>	<p>19</p> <p>1 the attorney-client 2 privilege. 3 Q. (By Mr. Lyles) Ms. Butler, I'm not asking 4 you to tell me about any conversations 5 between you and Mr. Lewis, okay? Because 6 that's protected. 7 A. Right. 8 Q. I'm not allowed to know about that. 9 A. Okay. 10 Q. Other than your lawyer helped you 11 determine that number? 12 A. No. 13 Q. And it also goes on down in Part (e) that 14 you want other relief; back pay, back 15 benefits, accrued leave, reinstatement or 16 what's called Crum pay, money instead of 17 reinstatement; is that right? 18 A. Exactly. 19 Q. And what type of position and so forth do 20 you want reinstated to? 21 A. I don't recall. 22 Q. Suppose the court says, "Okay. 23 Ms. Butler, you're right. Mr. Waits and</p>
<p>18</p> <p>1 harassment, did she tell you she never 2 had, or are you just assuming she never 3 had? 4 A. No. She has never told me. 5 Q. Okay. Now, your Prayer for Relief that 6 starts on Page 7 and goes over to Page 8, 7 that's basically, as I understand, you 8 are telling the court what you want the 9 court to do about this; is that right? 10 A. Yes. 11 Q. Okay. You want compensatory damages 12 against Mark Waits in the amount of 13 \$500,000. Tell me how you came up with 14 that figure, please, ma'am. 15 A. From all of the stress, humiliation, the 16 pain and suffering. 17 Q. Okay. 18 A. All that I had endured. 19 Q. All right. Did somebody help you come up 20 with that number, or did you just decide 21 that's what that was worth? 22 MR. LEWIS: Object to any 23 questions that might invoke</p>	<p>20</p> <p>1 Mr. Jackson were racist. They 2 discriminated against you, and I'm going 3 to give you what you are asking for. I'm 4 going to reinstate you." What do you 5 want the court to reinstate you to? What 6 job with ALDOT do you want? 7 A. I'm not sure at this time. 8 Q. Okay. But you said you feel like you 9 could perform the duties -- or you didn't 10 say this but, I'm assuming, since you 11 used to be an EA, you could perform those 12 duties? 13 A. Yes. 14 Q. Or CE or TT, as it's called now? 15 A. Yes. 16 Q. Okay. It also goes on to say that you 17 want to be awarded attorney's fees, which 18 means, if you win, the court will decide 19 how much money your lawyer is entitled 20 to. And I'm sure it will be a large 21 amount. 22 MR. LEWIS: And well deserved. 23 Q. (By Mr. Lyles) How much have you paid him</p>

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<p style="text-align: right;">21</p> <p>1 thus far?</p> <p>2 A. I haven't paid him anything.</p> <p>3 Q. Okay. Is this like on a -- if you win,</p> <p>4 he gets paid, kind of deal?</p> <p>5 A. Yes.</p> <p>6 MR. LEWIS: For the record, I will</p> <p>7 provide you with the</p> <p>8 contentions of the</p> <p>9 agreement.</p> <p>10 Q. (Mr. Lyles) That's fine. If I have</p> <p>11 evaluate this thing, I want to be able to</p> <p>12 give people numbers. Okay.</p> <p>13 Ms. Butler, yesterday we</p> <p>14 were in here and we talked, as you know,</p> <p>15 to Ms. Stacey. And your lawyer did his</p> <p>16 usual thorough job deposing Mr. Waits and</p> <p>17 Mr. Jackson. And some topics came up</p> <p>18 that I just want to make sure I</p> <p>19 understood what they were. So I am going</p> <p>20 to go back and ask you some things that</p> <p>21 came up. The reason I am doing that is I</p> <p>22 want to understand what you think</p> <p>23 happened and what you think is driving</p>	<p style="text-align: right;">23</p> <p>1 A. Making concrete cylinders.</p> <p>2 Q. Okay.</p> <p>3 A. Taking compactions.</p> <p>4 Q. All right. Let me stop you there. What</p> <p>5 is "taking compactions"? What does that</p> <p>6 mean?</p> <p>7 A. Taking compactions, that's checking soil.</p> <p>8 If we are doing soil compactions,</p> <p>9 running, taking densities on it.</p> <p>10 Q. Okay. Ms. Stacey didn't have to do that,</p> <p>11 as far as you know?</p> <p>12 A. Mrs. Stacey didn't do that.</p> <p>13 Q. Okay. All right. Let me ask you about</p> <p>14 that. I understand that you can testify</p> <p>15 that there were times you worked together</p> <p>16 and you didn't see her do it.</p> <p>17 A. Right.</p> <p>18 Q. But how you -- how do you know that she</p> <p>19 never did it?</p> <p>20 A. Because that was at her own admission.</p> <p>21 Q. Okay.</p> <p>22 A. And that she had no intentions of doing</p> <p>23 it.</p>
<p style="text-align: right;">22</p> <p>1 this lawsuit. Okay?</p> <p>2 A. Okay.</p> <p>3 Q. Now, Mr. Lewis asked Ms. Stacey if she</p> <p>4 did manual labor on the job. I believe</p> <p>5 she said, "yes." What is the</p> <p>6 significance of that? Is it your</p> <p>7 contention she didn't do manual labor or</p> <p>8 that you did more manual labor?</p> <p>9 A. Yes.</p> <p>10 Q. I'm sorry. I asked you two things and</p> <p>11 you said "yes." Which one?</p> <p>12 A. My contention is that not only did I not</p> <p>13 do more manual labor, she didn't do</p> <p>14 any.</p> <p>15 Q. Okay. She did no manual labor?</p> <p>16 A. No.</p> <p>17 Q. How much did you do?</p> <p>18 A. Whatever I needed to do. Quite a bit.</p> <p>19 Q. Okay. So part of what we are here about</p> <p>20 is you had to perform duties different</p> <p>21 from Ms. Stacey; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. Give me an example of that please, ma'am.</p>	<p style="text-align: right;">24</p> <p>1 Q. Who did she make that mention to?</p> <p>2 A. To me.</p> <p>3 Q. When did she do that?</p> <p>4 A. When we were on the 31 job. That was</p> <p>5 probably about October.</p> <p>6 Q. Okay. The 31 job; what is that?</p> <p>7 A. That's --</p> <p>8 Q. Highway 31?</p> <p>9 A. 31, yes.</p> <p>10 Q. During that time she said she had no</p> <p>11 intention of doing that?</p> <p>12 A. Right.</p> <p>13 Q. Okay. Ms. Stacey was asked if she</p> <p>14 complained to Todd -- which I assume is</p> <p>15 Mr. Jackson; is that right?</p> <p>16 A. Um-hum.</p> <p>17 Q. -- about hours worked and she said "no."</p> <p>18 Do you contend that she did indeed do</p> <p>19 that. That she complained to Todd about</p> <p>20 hours that she worked?</p> <p>21 MR. LEWIS: I object to the form.</p> <p>22 And the reason I'm objecting</p> <p>23 to it, for your benefit, is I</p>

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<p>25</p> <p>1) don't think she was objecting 2 to the hours that Ms. Stacey 3 worked. She was objecting to 4 the hours that Ms. Butler 5 worked. 6 Q. (By Mr. Lyles) Well, let me back up and 7 ask you that. 8 A. Okay. 9 Q. Is it your contention that there was some 10 difference between the hours you worked 11 or the hours that Ms. Stacey worked? Did 12 you work more hours than she did, or did 13 she complain about one of you not working 14 as many hours? 15 A. She didn't complain. 16 Q. Okay. 17 A. She just stated to Todd that I did not 18 work the hours. 19 Q. I see. You didn't work the hours that 20 you claimed you worked? 21 A. Exactly. 22 Q. When did that happen? 23 A. That happened on a few occasions.</p>	<p>27</p> <p>1 Q. All right. In your presence, she told 2 Mr. Jackson about other situations where 3 people didn't work? 4 A. Exactly. 5 Q. And from that, you are assuming that your 6 reduction in hours was due to her doing 7 the same thing to you? 8 A. Exactly. 9 Q. But you didn't personally see her do that 10 or hear her do that? 11 A. No. 12 Q. Okay. Now, you said you would come in 13 last. Your lawyer asked some questions 14 of Ms. Stacey about that, who generally 15 came in last. 16 A. Um-hum. 17 Q. Are you saying that the folks that you 18 rode with, or the crew you worked on, 19 were the last ones to come back to the 20 shop or to the base? 21 A. Right. 22 Q. Who would that be? Who would be in that 23 group that came in last?</p>
<p>26</p> <p>1 Q. Tell me about those occasions. 2 A. I don't exactly remember the dates. 3 Q. Okay. Tell me as much as you can about 4 the occasions so I can kind of figure out 5 what was going on. 6 A. Myself, Reeser Knight, Calvin Johnson and 7 Melvin Wynn would normally be the last 8 ones to come in at the end of the day. 9 We would lock up, and we would record our 10 hours. 11 Q. Okay. 12 A. And that meant no one was at the office 13 when we came in. 14 Q. Okay. 15 A. We put down the hours we worked only to 16 learn the next day that they would have 17 been changed by Mr. Jackson. Ms. Stacey 18 would tell Mr. Jackson that we did not, 19 in fact, work the hours. 20 Q. Okay. How do you know that she told 21 Mr. Jackson? 22 A. I have seen her do it with the other 23 employees in my presence.</p>	<p>28</p> <p>1 A. Most times it was myself, Melvin Wynn, 2 Reeser Knight and sometimes Calvin 3 Johnson. 4 Q. Okay. Now, that was after you quit 5 riding with Ms. Stacey; is that right? 6 A. Exactly. 7 Q. When did you stop riding with Ms. 8 Stacey? 9 A. In January. 10 Q. January? 11 A. I'm not exactly sure about the exact 12 date, but I know it was right after the 13 accident. 14 Q. Okay. That was the car accident we 15 talked about yesterday? 16 A. Yes. 17 Q. Okay. And why did y'all quite riding 18 together? 19 A. I stopped riding with her. 20 Q. And why is that? 21 A. I chose not to be in her - I did not 22 want to be in her company unless I had 23 to.</p>

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<p style="text-align: right;">29</p> <p>1 Q. Okay. Before that, y'all had been pretty 2 good friends; hadn't you? 3 A. I was a friend to her. She was an 4 associate of mine. 5 Q. You were a friend to her, but that was 6 not reciprocated; is that right? 7 A. Exactly. 8 Q. Did she on occasion buy your lunch 9 because you didn't have any money to buy 10 lunch? 11 A. She bought my lunch whether I had money 12 or not. 13 Q. Okay. She bought your lunch. Did she on 14 one occasion give you some money to buy 15 your children Christmas presents? 16 A. No. 17 Q. That didn't happen? 18 A. No. 19 Q. Are you sure? 20 A. I'm sure. 21 Q. If Ms. Stacey says she gave you several 22 \$100 to buy Christmas for your children; 23 she is lying?</p>	<p style="text-align: right;">31</p> <p>1 there? 2 A. No. 3 Q. Okay. Had she taken you to the doctors 4 before when you needed to go to the 5 doctor? 6 A. Yes. 7 Q. In fact, wasn't she on some of the 8 doctor's records as being someone with 9 whom they could discuss your medical 10 condition? 11 A. Not to my knowledge. 12 Q. You never put her on there? 13 A. No. 14 Q. Okay. Did she often go back in the 15 doctor's office with you? 16 A. Yes. 17 Q. Now, there was some questions about 18 padding time sheets yesterday. 19 A. Yes. 20 Q. And I know you were here for part of the 21 deposition. Do you recall those 22 questions? Do you know what they were 23 about?</p>
<p style="text-align: right;">30</p> <p>1 A. Yes, she is. 2 Q. During the time that y'all were riding 3 together and that you were a friend to 4 her, but she was not a friend to you, did 5 there come a time when there was a death 6 in your family? One of your relatives 7 died? 8 A. That happened on a couple of occasions. 9 Q. Okay. Did Ms. Stacey come to the 10 funerals of those people? 11 A. Not to my knowledge. 12 Q. Okay. Did she come to the house after 13 the funeral? 14 A. Yes. 15 Q. After the accident in January, did she 16 call your house on several occasions to 17 check on you? 18 A. She may have called once or twice. 19 Q. Okay. Now, the day of the accident she 20 was back in the examining room with you; 21 is that right? 22 A. Yes. 23 Q. Okay. Did you ask her to come back</p>	<p style="text-align: right;">32</p> <p>1 A. I don't recall them specifically, no. 2 Q. As you told me earlier, you feel like 3 there was times that you worked hours and 4 Ms. Stacey would go behind you and say, 5 no, she didn't work those hours? 6 A. Yes. 7 Q. Mr. Lewis asked some folks about leave 8 that was previously approved and then 9 disapproved later. Do you remember that 10 line of questions? 11 A. Yes. 12 Q. Tell me what you contend happened. 13 A. Mr. Jackson held a meeting and came and 14 passed out to all of the employees a memo 15 from Mr. Waits stating that they were 16 going back to April 8th and checking 17 leave. I don't know. I don't remember 18 exactly the contents of the letter. But 19 it meant that they were going to go back 20 into your record, and leave that they 21 felt shouldn't have been approved, they 22 were going to go back and disapprove 23 it.</p>

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<p>33</p> <p>1 Q. Okay. And did you feel like that was 2 something they were out to get you? 3 A. Yes. 4 Q. Okay. Why did you feel that way? 5 A. Because they had started doing all sorts 6 of things of that nature. 7 Q. Do you know whether or not -- did they 8 ever actually take any leave from you? 9 A. Yes. 10 Q. And did they take it from any other 11 employees? 12 A. I don't have that knowledge. 13 Q. Okay. Do you know whether or not they 14 took any from Ms. Stacey? 15 A. I don't have that knowledge. 16 Q. Okay. Ms. Stacey at one point got a 17 letter about her leave also; did she 18 not? 19 A. I don't have that knowledge either. 20 Q. She didn't tell you about that? 21 A. No. 22 Q. Okay. Now, you heard -- never mind. Let 23 me ask you something else. There was a</p>	<p>35</p> <p>1 have them out of there. I guess 2 transferred out. 3 Q. Was there co-workers that wasn't doing 4 their job or just people she didn't like 5 or what? 6 A. No. My opinion was she did it because 7 she knew she could. 8 Q. Okay. Does Reeser Knight still work for 9 the Department? 10 A. No. 11 Q. How come: Do you know? 12 A. She said she couldn't handle the stress. 13 She left. 14 Q. Okay. We talked earlier about different 15 duties and so forth. I have got a mark 16 here next to "compaction." Compaction 17 and slump test. What is that? 18 A. That's where you're actually testing the 19 strength of the concrete. 20 Q. Okay. All right. Now, as I understood 21 yesterday, there was some talk about a 22 reprimand you got; was there not? Did 23 you get a reprimand from Mr. Jackson over</p>
<p>34</p> <p>1 name that came up yesterday, a Reeser 2 Knight. Do you remember who that is? 3 A. Yes. 4 Q. Okay. There was some questions about Ms. 5 Stacey talking to her about complaints 6 that she had on the job or problems she 7 had with Ms. Stacey. What are you 8 contending here that -- did Ms. Knight 9 have problems with Ms. Stacey also? 10 A. I think they had had some type of 11 conflict at one time. 12 Q. Okay. Did Ms. Stacey get into arguments 13 with folks a lot at work? 14 A. Yes. 15 Q. Tell me about that. 16 A. Pretty much if she didn't have her way, 17 or whatever, she would periodically go 18 off on co-workers, threaten to have them 19 removed. 20 Q. Okay. Threaten to have them removed? 21 A. Yes. 22 Q. What does that mean? 23 A. She would make the statement, she will</p>	<p>36</p> <p>1 here? 2 A. I got a couple of them. 3 Q. Tell me about each one, please, ma'am. 4 What was the first one you remember ever 5 getting from Mr. Jackson? 6 A. The first one was about the altercation 7 that took place on the job site. 8 Q. Was that the one we talked about 9 yesterday with Ms. Stacey? 10 A. Yes. 11 Q. That was the first one. That was 12 sometime in April of 2005; is that right? 13 A. Yes. 14 Q. And some things happened after that? 15 A. Yes. 16 Q. Tell me about them. 17 A. About approximately maybe 14 days later, 18 Mr. Jackson came, called me over to his 19 truck and Mr. Wynn and Ms. Knight. He 20 talked to me first and Mr. Wynn and told 21 us to go over to Mr. Waits' office and 22 that the young lady had some paperwork 23 waiting for me to pick up.</p>

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<p style="text-align: right;">37</p> <p>1 Q. Okay.</p> <p>2 A. And that once we picked that paperwork</p> <p>3 up, we were to go back to our office.</p> <p>4 And Mr. Wynn, he turned around and he</p> <p>5 told Mr. Wynn where he wanted us to take</p> <p>6 us, because Mr. Wynn was driving. Then I</p> <p>7 went over and I explained it to Ms.</p> <p>8 Knight and we left. The next day he came</p> <p>9 out to the site, wrote me a letter of</p> <p>10 reprimand and told me that I did not</p> <p>11 follow his order. And I told him that I</p> <p>12 did follow his orders.</p> <p>13 Q. Okay.</p> <p>14 A. He said he instructed me to go in his</p> <p>15 mailbox and retrieve some paperwork. And</p> <p>16 I told him, "You did not tell me that."</p> <p>17 And at that point he started hollering</p> <p>18 and told me to shut up.</p> <p>19 Q. Who did that?</p> <p>20 A. Mr. Jackson.</p> <p>21 Q. Okay. You feel like it was based on your</p> <p>22 race?</p> <p>23 A. Yes.</p>	<p style="text-align: right;">39</p> <p>1 I'm trying to distinguish between raising</p> <p>2 his voice and actually cursing at you.</p> <p>3 And you're saying that he would curse at</p> <p>4 you?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. When you came to work for</p> <p>7 Mr. Jackson, or got to know him, didn't</p> <p>8 you tell him that you knew he wasn't a</p> <p>9 racist?</p> <p>10 A. Ask me that question again.</p> <p>11 Q. Didn't you tell Mr. Jackson you knew he</p> <p>12 wasn't a racist?</p> <p>13 A. No.</p> <p>14 Q. Didn't you tell some of the black</p> <p>15 employees they didn't have to worry about</p> <p>16 Mr. Jackson because you knew he wasn't a</p> <p>17 racist?</p> <p>18 A. No. My exact words were that I did not</p> <p>19 feel that he was from what I had seen of</p> <p>20 him. I had never worked with him</p> <p>21 before.</p> <p>22 Q. But you did at some point tell folks that</p> <p>23 you didn't feel he was a racist?</p>
<p style="text-align: right;">38</p> <p>1 Q. Or was that part of the retaliation?</p> <p>2 A. That was both.</p> <p>3 Q. Okay. All right.</p> <p>4 A. So I, in fact, shut up. Then he started</p> <p>5 in on Ms. Knight because she told him,</p> <p>6 "You didn't tell me anything."</p> <p>7 Q. Um-hum.</p> <p>8 A. "You had Rene to tell me." He in turn</p> <p>9 went off on her.</p> <p>10 Q. And "went off," you mean lost his</p> <p>11 temper?</p> <p>12 A. Yes.</p> <p>13 Q. When he did that, what would he do?</p> <p>14 A. Put his finger in your face, cuss you</p> <p>15 out.</p> <p>16 Q. "Cuss you out." What words would he</p> <p>17 use?</p> <p>18 A. It all depended.</p> <p>19 Q. Damn, hell, cuss words? When you say</p> <p>20 cuss you out, you are talking literally</p> <p>21 he would curse at you?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. I don't need to know each word.</p>	<p style="text-align: right;">40</p> <p>1 A. Right.</p> <p>2 Q. You told him that; is that right?</p> <p>3 A. I don't recall.</p> <p>4 Q. But later you changed your mind and</p> <p>5 decided he was?</p> <p>6 A. From his actions, yes.</p> <p>7 Q. Which particular actions caused you one</p> <p>8 day to say, well, he is a racist after</p> <p>9 all?</p> <p>10 A. After the incident with another employee.</p> <p>11 I think it may have been Peter Smith.</p> <p>12 And he and Ms. Stacey were in a</p> <p>13 conversation after Mr. Jackson had gotten</p> <p>14 off the phone with Mr. Waits. And I saw</p> <p>15 them more or less trying to plot to get</p> <p>16 Mr. Smith out.</p> <p>17 Q. Tell me about that. You saw them</p> <p>18 plotting. Tell me what you mean by that.</p> <p>19 A. They made the statement about that he</p> <p>20 needed one more letter against him and</p> <p>21 that Mark could get rid of him.</p> <p>22 Q. Mark being --</p> <p>23 A. Mr. Waits.</p>

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<p style="text-align: right;">41</p> <p>1 Q. -- to your understanding, Mr. Waits?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And at this point in time,</p> <p>4 Mr. Smith does not work for ALDOT; does</p> <p>5 he?</p> <p>6 A. No.</p> <p>7 Q. He was terminated; wasn't he?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know whether or not he went to a</p> <p>10 personnel hearing?</p> <p>11 A. I'm not sure.</p> <p>12 Q. Do you know what he was terminated for?</p> <p>13 A. I'm not sure.</p> <p>14 Q. Let me show you -- I think this is the</p> <p>15 right document. This is what I think we</p> <p>16 were talking about yesterday, a letter of</p> <p>17 reprimand. Is that what happened after</p> <p>18 the confrontation at the job site?</p> <p>19 A. This is the reprimand that I received,</p> <p>20 yes.</p> <p>21 (The referred-to document was</p> <p>22 marked for identification as</p> <p>23 Defendants' Exhibit No. 4)</p>	<p style="text-align: right;">43</p> <p>1 Q. All right. Did you discuss what Ms.</p> <p>2 Stacey allegedly said with the other</p> <p>3 employees?</p> <p>4 A. I went out the next morning. We were all</p> <p>5 getting ready to go out to the job. And</p> <p>6 I asked -- I had already asked two other</p> <p>7 employees.</p> <p>8 Q. Which ones did you ask?</p> <p>9 A. I had asked the two that rode with me,</p> <p>10 which would have been Ms. Knight and Mr.</p> <p>11 Wynn.</p> <p>12 Q. Okay.</p> <p>13 A. Had either of them told Ms. Stacey that I</p> <p>14 had said that she had made these</p> <p>15 comments.</p> <p>16 Q. Um-hum.</p> <p>17 A. They both had responded, "no."</p> <p>18 Q. Okay.</p> <p>19 A. So the following morning I had asked</p> <p>20 Mr. Johnson, Mr. Feagin and Mr. Taylor.</p> <p>21 Q. Wait one second. I'm sorry. I can't</p> <p>22 write as fast as a lot of people.</p> <p>23 Mr. Johnson, Mr. Feagin?</p>
<p style="text-align: right;">42</p> <p>1 Q. It says you were reprimanded for</p> <p>2 distracting on the job and for</p> <p>3 disruptive conduct; is that right?</p> <p>4 A. Inattention to job. Anything distracting</p> <p>5 on the job. Disruptive conduct of any</p> <p>6 sort.</p> <p>7 Q. All right. Let me back up a little bit.</p> <p>8 I understood from yesterday's testimony</p> <p>9 that Mr. Jackson told you not to discuss</p> <p>10 this matter with people on the job site;</p> <p>11 is that right?</p> <p>12 A. No. He did not.</p> <p>13 Q. Never told you that?</p> <p>14 A. No.</p> <p>15 Q. When he said that yesterday, he was</p> <p>16 either lying or he was mistaken?</p> <p>17 A. He was lying.</p> <p>18 Q. How do you know he was lying and not just</p> <p>19 mistaken?</p> <p>20 A. Mr. Jackson knows what he said to me.</p> <p>21 Q. Okay. He is just flat-out lying?</p> <p>22 A. He was too firm about the fact of saying</p> <p>23 that he said it to me.</p>	<p style="text-align: right;">44</p> <p>1 A. Yes.</p> <p>2 Q. And who else?</p> <p>3 A. Mr. Taylor.</p> <p>4 Q. T-E?</p> <p>5 A. T-A-Y-L-O-R.</p> <p>6 Q. Mr. Taylor. I'm sorry. All right. So</p> <p>7 the next morning you asked those</p> <p>8 people?</p> <p>9 A. Yes.</p> <p>10 Q. What did they say?</p> <p>11 A. One of them just simply said, "No." That</p> <p>12 was Mr. Johnson. Mr. Taylor said, "You</p> <p>13 know, I don't even talk to her."</p> <p>14 Mr. Feagin said that she had come to him</p> <p>15 and asked had he heard that.</p> <p>16 Q. You heard the testimony yesterday. Did</p> <p>17 any of them tell you that you just needed</p> <p>18 to talk to Ms. Stacey?</p> <p>19 A. Oh, Mr. Taylor told me that morning, "Why</p> <p>20 don't you confront her about it?"</p> <p>21 Q. Okay.</p> <p>22 A. And I told him that wouldn't be</p> <p>23 necessary.</p>

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<p style="text-align: right;">45</p> <p>1 Q. Okay. So you heard -- I'm assuming you 2 heard Ms. Stacey yesterday talk about 3 when she came to the site, somebody said, 4 "Rene has something she wants to say to 5 you." Do you remember words to that 6 effect? 7 A. Um-hum. 8 Q. Did that happen? 9 A. I don't know. I wasn't even near them. 10 Q. All you know is that she came over to the 11 truck where you were? 12 A. I was not at the truck. 13 Q. Where were you? 14 A. I was standing. I had walked off. My 15 daughter had called with a situation. So 16 I had walked away from everybody pretty 17 much almost to the edge of the curb. 18 Q. Okay. So Ms Stacey came up and 19 confronted you? 20 A. Yes. 21 Q. Whether somebody told her to do that; you 22 don't know. You just knew she showed up 23 where you were with your cell phone?</p>	<p style="text-align: right;">47</p> <p>1 Q. Okay. Where you differ is that you say 2 that Mr. Jackson had never told you not 3 to do that? 4 A. Exactly. 5 Q. All right. Now, Ms. Stacey said 6 yesterday about one of the employees -- 7 about you telling her that one of the 8 employees was telling her, "You better 9 look out for her," that one of the 10 employees was going to string her up. Do 11 you remember that testimony? 12 A. Yes. 13 Q. Did that happen? 14 A. Yes. 15 Q. You told her that the employee said 16 that? 17 A. Yes. 18 Q. Did he say it? 19 A. Yes. 20 Q. All right. Now, have you ever told Mr. 21 Waits over here that the employee didn't 22 really say that, that you were just 23 kidding with Ms. Stacey?</p>
<p style="text-align: right;">46</p> <p>1 A. Right. 2 Q. What did she say to you? 3 A. She said, "You need to stop going around 4 here telling these lies on me." 5 Q. Um-hum. 6 A. And at that point I had turned around, 7 because she had reached for me on my 8 shoulder. I asked her, I said, "What did 9 you say?" She said, "You need to stop 10 going around telling these lies on me." 11 So at this point my daughter on the phone 12 is asking me, "What's going on?" I am 13 telling her, "I don't know. I'll call 14 you back." By then the other co-workers 15 had began to gather around. 16 Q. Okay. So let me see if I understand what 17 you are telling me. And if I 18 misunderstand you, tell me. But there is 19 not a question of whether or not you said 20 something to these people about what 21 happened or asked them what she said; 22 right? 23 A. If she said, yes.</p>	<p style="text-align: right;">48</p> <p>1 A. Did I tell Mr. Waits what? 2 Q. That that employee did not say those 3 things. That you were just kidding with 4 Ms. Stacey. 5 A. Mr. Waits and I never talked about 6 that. 7 Q. Your answer would be "no" then? 8 A. Yes. 9 Q. You never admitted to Mr. Waits that you 10 had indeed told Karen that, but that the 11 employee didn't say those things? 12 A. No. 13 Q. Let me ask you one more thing about this 14 rebuttal now. If I understand -- not 15 rebuttal -- I'm sorry -- reprimand. If I 16 understand what you are telling me, there 17 is no question that the discussion 18 between you and these employees went on; 19 your issue is that Mr. Jackson wrote you 20 up for disobeying an order that he never 21 gave you; is that right? 22 A. Yes. 23 Q. Now, are you saying that at the wreck</p>

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<p>49</p> <p>1 that Ms. Stacey did indeed use the 2 language we heard yesterday? 3 A. Yes. 4 Q. Did you later tell Mr. Jackson that you 5 just didn't think about it anymore. That 6 you forgot about it? 7 A. I tried to tell Mr. Jackson the date of 8 the accident at the hospital. 9 Q. Right. I thought I understood 10 Mr. Jackson to say yesterday that when 11 this came up later that he mentioned it 12 to you, and you said, "Well, I forgot it 13 as soon as it happened." 14 A. No, that never happened. 15 Q. Okay. 16 A. Mr. Jackson's exact words were, did that 17 upset me. 18 Q. Okay. What did you tell him? 19 A. I asked him what did he think. 20 Q. Okay. Did you use the term "nigger" 21 sometimes? 22 A. Not at work, no. 23 Q. Now, Ms. Stacey had met members of your</p>	<p>51</p> <p>1 A. Yes. 2 Q. He used to be a radio personality? 3 A. Yes. 4 Q. He has some kind of mission now that he 5 operates; is that right? 6 A. Yes. 7 Q. Did Ms. Stacey's husband ever work at 8 that mission or contribute to that 9 mission; to your knowledge? 10 A. Yes. 11 Q. Was that before the falling out about the 12 wreck? 13 A. That was after my father had helped them 14 get a \$400,000 loan for the company. 15 Q. Your dad helped them do that? 16 A. Yes. 17 Q. How did he help them do that? 18 A. He set them up an appointment with 19 someone that he knew that was a friend of 20 his to help get the paperwork started and 21 talk them through it. 22 Q. And that was another example of you 23 trying to be friends with Ms. Stacey or</p>
<p>50</p> <p>1 family; had she not? 2 A. Yes. 3 Q. In fact, you introduced her to your 4 daddy; is that right? 5 A. Yes. 6 Q. Did you tell your daddy that you wanted 7 him to tell Ms. Stacey that she wasn't 8 your house nigger? 9 A. Yes. 10 Q. You have used that phrase in front of Ms. 11 Stacey? 12 A. Yes. 13 Q. Okay. Did you tell other employees to 14 tell her that you were not her house 15 nigger? 16 A. No. 17 Q. If she says you did, she is just 18 mistaken? 19 A. I wouldn't have said that word. I don't 20 recall. 21 Q. All right. Now, speaking of your daddy. 22 Your daddy -- if I understand correctly, 23 Mr. Dixon is a minister?</p>	<p>52</p> <p>1 trying to help her or earlier that you 2 tried to be a friend and she wasn't one 3 to you? 4 A. Right. 5 Q. All right. What kind of things would he 6 do at your father's mission? 7 A. He went out and cut some doors. 8 Q. Okay. All right. Did he do some kind of 9 contracting work or something? 10 A. He is a concrete company. 11 Q. Okay. Now, let's talk about that wreck 12 we have all heard so much about. I'm 13 trying to keep this from being any longer 14 than it has to be. Basically, there is a 15 wreck on Southern Boulevard? 16 A. Um-hum. 17 Q. You were riding with Ms. Stacey? 18 A. Um-hum. 19 Q. What happened was, another car pulled 20 out, and she hit the car broadside or hit 21 it in the side? 22 A. The car pulled out of Entec. 23 Q. Okay.</p>

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<p>53</p> <p>1 A. And she was trying to pull into Taco 2 Bell, which is next door to Entec. 3 Q. Um-hum. 4 A. And when the car pulled out, she 5 attempted to turn once. And I told her 6 to hold up. And she thought she had 7 enough time to make it. Because once she 8 got ready to take off, the car that was 9 already traveling wasn't sure if she was 10 going to hit him. So this car also 11 paused. 12 Q. Okay. 13 A. And when he saw that she went on and 14 stopped, he resumed driving. My 15 assumption is that she felt that at that 16 moment when she saw him pause that he was 17 going to go on and stop and let her 18 across. So she shot for it. 19 Q. Okay. And there was not that much damage 20 to either vehicle; was there? 21 A. I don't know what the damage was to his 22 vehicle. 23 Q. Do you know whether or not the damage to</p>	<p>55</p> <p>1 police vehicle. I'm saying what she told 2 me that she was going to tell Todd. 3 Q. Okay. You've looked at this accident 4 report before; have you not? 5 A. No. 6 Q. You didn't go down to the city and get a 7 copy of it? 8 A. Yes. 9 Q. Okay. So you got a copy of it. Did you 10 look at it when you got it? 11 A. I just put it in my file. 12 Q. Okay. 13 A. What I mainly got it for, I wanted the 14 people's name off of there. 15 Q. You called them after that? 16 A. Yes. 17 Q. But the report itself does indeed say 18 that Ms. Stacey was at fault; does it 19 not? 20 A. I'm not sure. 21 Q. Okay. So she tried to lie to the 22 policeman and it didn't work; did it? 23 MR. LEWIS: Object to the form.</p>
<p>54</p> <p>1 the Department's vehicle was less than 2 \$200? 3 A. I'm not sure. 4 Q. I think Ms. Stacey said yesterday that 5 the air bags never deployed. Is that 6 true, as far as you know? 7 A. No, they didn't. 8 Q. From there, you went to the hospital? 9 A. Yes. 10 Q. Did Ms. Stacey take you? 11 A. No. 12 Q. Who took you to the hospital? 13 A. Mr. Jackson had Mr. Wynn to take me. 14 Q. Okay. Now, I understood yesterday -- or 15 questions were about whether Ms. Stacey 16 had lied to the police officer about what 17 happened. Do you remember those 18 questions? 19 A. No. 20 Q. Well, are you saying here today that she 21 did lie or she falsified a report? 22 A. I'm saying I don't know what she said 23 with the police because they were in the</p>	<p>56</p> <p>1 Q. (Mr. Lyles) You can answer. 2 A. I don't know. 3 Q. Okay. You're saying she -- and we've 4 heard the phrase that you say that she 5 used yesterday. When he got out -- when 6 Mr. Smiley got out to direct traffic that 7 she says disparaging things about him 8 getting hit or acting stupid or something 9 along those lines; is that right? 10 A. (Witness nods head) 11 Q. Did Mr. Smiley hear her say either of 12 those things? 13 MR. LEWIS: Object to the form. 14 Q. (By Mr. Lyles) Did he indicate to you 15 that he had heard her say those things? 16 A. No. 17 Q. Now, when you got to the hospital, 18 somehow Ms. Stacey ended up back in the 19 examining room with you; did she not? 20 A. Yes. 21 Q. How did that happen? 22 A. I don't know. 23 Q. Okay. This other gentleman took you?</p>

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<p>57</p> <p>1 A. Yes.</p> <p>2 Q. Then all of a sudden, Ms. Stacey was</p> <p>3 there?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have any idea how she got there or</p> <p>6 why she got there?</p> <p>7 A. No.</p> <p>8 Q. Did the doctor come in and talk to both</p> <p>9 of you while she was present?</p> <p>10 A. The doctor was already talking to me when</p> <p>11 she came in.</p> <p>12 Q. Did he ask her also what happened also?</p> <p>13 A. No. He was talking to me.</p> <p>14 Q. Did she tell him what happened?</p> <p>15 A. She tried to tell him her version of what</p> <p>16 happened.</p> <p>17 Q. Okay. At some point, did you say</p> <p>18 something to the effect of, "Jesus knows</p> <p>19 the truth." And Ms. Stacey said, "That's</p> <p>20 right. He does."</p> <p>21 A. Probably. I'm not sure. I don't</p> <p>22 recall.</p> <p>23 Q. Okay. How did what she was telling the</p>	<p>59</p> <p>1 medication and told you to rest for a</p> <p>2 couple of days?</p> <p>3 A. Yes.</p> <p>4 Q. And you went to your own doctor after</p> <p>5 that or went to the workmens' comp</p> <p>6 doctor?</p> <p>7 A. Yes.</p> <p>8 Q. And they basically gave you some more</p> <p>9 medication and said to rest for a couple</p> <p>10 of days?</p> <p>11 A. Yes.</p> <p>12 Q. Did you file a claim with the Risk</p> <p>13 Management folks or with workmens'</p> <p>14 comp?</p> <p>15 A. I don't recall.</p> <p>16 Q. Okay. You don't recall whether of not</p> <p>17 she filed a claim with CTIF (sic) and</p> <p>18 were told that you were on your lunch</p> <p>19 hour so you couldn't get any relief for</p> <p>20 what happened?</p> <p>21 A. I don't think I filed anything. But I do</p> <p>22 remember them sending me a letter to that</p> <p>23 effect.</p>
<p>58</p> <p>1 doctor differ from what you were trying</p> <p>2 to tell the doctor?</p> <p>3 A. Before she told the doctor when the</p> <p>4 doctor was asking me where I hurting at,</p> <p>5 I was in a conversation with him trying</p> <p>6 to tell him. And she just butt in and</p> <p>7 said, "Well, it couldn't be because we</p> <p>8 weren't hit that hard. We were actually</p> <p>9 sitting still when the man hit us."</p> <p>10 Q. Okay. What did the doctor say?</p> <p>11 A. He didn't say anything.</p> <p>12 Q. Okay. What happened next?</p> <p>13 A. The doctor went on and finished. And</p> <p>14 when I made that statement about when she</p> <p>15 said that we were actually sitting still</p> <p>16 when he hit us, I turned to her and told</p> <p>17 her, "You need to quit telling that lie."</p> <p>18 I said, "First of all, he did not hit us.</p> <p>19 We, in fact, hit him."</p> <p>20 Q. Okay.</p> <p>21 A. And when I made that statement, she</p> <p>22 stormed out of the room.</p> <p>23 Q. All right. And that doctor gave you some</p>	<p>60</p> <p>1 Q. Okay. All right. Mr. Jackson was asked</p> <p>2 a couple of questions about whether or</p> <p>3 not he had advised you to watch yourself</p> <p>4 and also to take Ms. Knight aside and</p> <p>5 tell her to watch herself.</p> <p>6 A. Um-hum.</p> <p>7 Q. Did that happen?</p> <p>8 A. Yes.</p> <p>9 Q. Tell me about that.</p> <p>10 A. When I --</p> <p>11 MR. LEWIS: Object to form. Which</p> <p>12 one?</p> <p>13 Q. (By Mr. Lyles) Both.</p> <p>14 A. Those were at two different times.</p> <p>15 Q. Okay. Tell me about --</p> <p>16 A. Mr. Jackson also stated yesterday we</p> <p>17 started at the same time with him. We</p> <p>18 did not.</p> <p>19 Q. Okay.</p> <p>20 A. When I came to Mr. Jackson, and he took</p> <p>21 me in his office talking to me and</p> <p>22 telling me his rules.</p> <p>23 Q. This is when you first came?</p>

15 (Pages 57 to 60)

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<p style="text-align: right;">61</p> <p>1 A. To Mr. Jackson.</p> <p>2 Q. This was at the point that you didn't</p> <p>3 think he was a racist?</p> <p>4 A. Exactly.</p> <p>5 Q. Okay. Tell me what he said to you.</p> <p>6 A. He said -- he went on to tell me what his</p> <p>7 policies were and that he would give me</p> <p>8 something typed up to that effect.</p> <p>9 Q. Let me stop you there. Did he eventually</p> <p>10 do that?</p> <p>11 A. Yes.</p> <p>12 Q. He gave you a packet of information, and</p> <p>13 you signed something showing that you got</p> <p>14 that packet?</p> <p>15 A. Right.</p> <p>16 Q. Go ahead.</p> <p>17 A. He went on to the tell me that I needed</p> <p>18 to watch myself. Be careful what I was</p> <p>19 doing because Mark was gunning for me.</p> <p>20 "And, you know Mark, when he is gunning</p> <p>21 for someone, he gets his man."</p> <p>22 Q. Okay. When he said, "You know Mark,</p> <p>23 when he is gunning for somebody, he gets</p>	<p style="text-align: right;">63</p> <p>1 outside help. And he had also --</p> <p>2 Q. Let me stop you. You went for outside</p> <p>3 help. What do you mean?</p> <p>4 A. I went to -- after I met with Mr. Joe</p> <p>5 McInnes, and at that time Troy King was</p> <p>6 Governor Riley's top legal advisor, then</p> <p>7 I ended up going back to write the</p> <p>8 governor and ended up writing my</p> <p>9 congressman.</p> <p>10 Q. Okay. I was going to ask you: You wrote</p> <p>11 a congressman also; is that right?</p> <p>12 A. Yes. I wrote to Representative Mr. Alvin</p> <p>13 Holmes. Mr. Holmes called the Division</p> <p>14 Office and requested an investigation.</p> <p>15 Q. Okay. Was there an investigation?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Now, in the past there had been a</p> <p>18 grievance hearing about some of your</p> <p>19 allegations against Mr. Horace; was there</p> <p>20 not?</p> <p>21 A. Yes.</p> <p>22 Q. And the Hearing Officer was</p> <p>23 Mr. Robertson. Do you recall that?</p>
<p style="text-align: right;">62</p> <p>1 his man"?</p> <p>2 A. Yes.</p> <p>3 Q. Did you indeed know Mark?</p> <p>4 A. Yes.</p> <p>5 Q. Is that what you understood?</p> <p>6 A. Yes.</p> <p>7 Q. Why did you think that?</p> <p>8 A. Because my exact words to him were, "I</p> <p>9 know."</p> <p>10 Q. Okay. But how did you know that?</p> <p>11 A. From previous situations.</p> <p>12 Q. Such as?</p> <p>13 A. Such as the first one of the cases that I</p> <p>14 had charges that I had filed.</p> <p>15 Specifically, the sexual harassment</p> <p>16 charge.</p> <p>17 Q. That was against Mr. Horace?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 A. Where I had repeatedly reported it to Mr.</p> <p>21 Waits and his assistant and everybody</p> <p>22 else who would listen. Got no results</p> <p>23 there. So I ended up having to go for</p>	<p style="text-align: right;">64</p> <p>1 A. I don't recall.</p> <p>2 Q. Okay. Mr. Mellon represented ALDOT. Do</p> <p>3 you remember that?</p> <p>4 A. Not by name.</p> <p>5 Q. Okay. You had Mr. Atha from Wiggins,</p> <p>6 Childs Law Firm?</p> <p>7 A. Yes.</p> <p>8 Q. That was one of your complaints, was it</p> <p>9 not, in your letter to the congressman</p> <p>10 that the Wiggins Law Firm didn't do a</p> <p>11 good job in representing you?</p> <p>12 A. Exactly.</p> <p>13 Q. Okay. Wasn't one of the findings of the</p> <p>14 Hearing Officer that your initial</p> <p>15 complaints were -- it was a while before</p> <p>16 you actually got to filing a grievance</p> <p>17 about sexual harassment?</p> <p>18 A. I don't understand the question.</p> <p>19 Q. Didn't the Hearing Officer find that for</p> <p>20 a while that your complaints weren't</p> <p>21 clear. It was at a later time that you</p> <p>22 alleged sexual harassment. And once it</p> <p>23 became obvious to the Department, they</p>

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<p>65</p> <p>1 acted on it. It became obvious to them 2 in the fall of 2002?</p> <p>3 MR. LEWIS: Object to the form. 4 (The referred-to document was 5 marked for identification as 6 Defendants' Exhibit No. 2)</p> <p>7 Q. (By Mr. Lyles) Let me show you this. 8 Have you seen this? Did your lawyer show 9 it to you?</p> <p>10 A. No, I got -- they sent me a copy, I 11 believe.</p> <p>12 Q. In here it also finds there was a mistake 13 that Mr. Horace should not have evaluated 14 you; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Mr. Waits -- I think from the Hearing 17 Officer was, Mr. Waits that said he 18 didn't know anything about sexual 19 harassment until February of 2003; is 20 that right?</p> <p>21 A. That's what Mr. Waits said, yes.</p> <p>22 Q. Okay. All right. Now, so you said Mr. 23 Waits gets his man and so forth. Are you</p>	<p>67</p> <p>1 Q. All right. And you talked about your 2 complaints. Let me see. In '96, you 3 filed a grievance about working 4 conditions; in '98, you filed a grievance 5 about conflict of co-workers; 2003, there 6 was harassment. Which I assume is Mr. 7 Horace; is that right?</p> <p>8 A. Um-hum.</p> <p>9 Q. Then in '05, complaint with co-workers 10 and so forth. How many EEOC charges did 11 you file?</p> <p>12 A. I'm not sure. And I'm not sure -- I 13 don't know what the other one is. The 14 first one that you said, conflict with 15 co-workers.</p> <p>16 Q. Okay. Conflict with co-workers would be 17 2002. You worked for -- let me see. You 18 worked for Mr. Kelly?</p> <p>19 A. I'm not sure what year, but I did work 20 for Mr. Kelly.</p> <p>21 Q. You said you wanted a complete 22 investigation into the wrongdoings that 23 Robert Smiley reported about you?</p>
<p>66</p> <p>1 saying that the things that have happened 2 to you were a result of your filing a 3 complaint of Mr. Horace?</p> <p>4 A. Against the State. He was also mentioned 5 in that complaint because he did nothing 6 about it.</p> <p>7 Q. Okay.</p> <p>8 A. As well as the first complaint that I had 9 against Mr. Smiley. His name was also on 10 those papers.</p> <p>11 Q. Okay. And you are saying that throughout 12 these series of events Mr. Waits just 13 didn't do anything?</p> <p>14 A. Exactly.</p> <p>15 Q. Yet, Mr. Waits was the one who 16 investigated Mr. Horace; was he not?</p> <p>17 A. No.</p> <p>18 Q. Are you sure about that?</p> <p>19 A. No.</p> <p>20 Q. Who did?</p> <p>21 A. That came about through the Division 22 Engineer at that time when we had a 23 meeting.</p>	<p>68</p> <p>1 A. Yes.</p> <p>2 Q. Okay. You want to be reimbursed for 3 doctor's visits and so on and so forth; 4 is that right?</p> <p>5 A. Yes.</p> <p>6 Q. How many EEOC charges have you filed 7 against with the Department?</p> <p>8 A. I'm not sure about the number.</p> <p>9 Q. Prior to Mr. Todd, another supervisor who 10 you felt did not evaluate you properly; 11 is that right?</p> <p>12 A. Mr. Horace.</p> <p>13 Q. Other than Mr. Horace? Wasn't there one 14 before him where you refused to sign your 15 evaluation?</p> <p>16 A. That may have been one that Mr. Smiley 17 had done after the conflict.</p> <p>18 Q. After which conflict?</p> <p>19 A. After the conflict of the EEO charge, and 20 I went to the Division Engineer about 21 that. And he, in fact, didn't think that 22 Mr. Smiley should be doing that 23 particular appraisal.</p>

17 (Pages 65 to 68)

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<p style="text-align: right;">69</p> <p>1 Q. Okay. After your grievance hearing about 2 your evaluation, the Department went back 3 and changed evaluations and tried to make 4 that right; did they not? 5 A. Um-hum. 6 Q. Okay. Have you ever seen this letter? I 7 have marked it as Exhibit 6. It looks 8 like a letter from Dan Morris to Tommy 9 Flowers asking that your evaluations be 10 adjusted. 11 (The referred-to document was 12 marked for identification as 13 Defendants' Exhibit No. 6) 14 Q. (By Mr. Lyles) And it says, "Approved: 15 Jackie Graham 10-25-04." Do you know who 16 Ms. Graham is? 17 A. Wait a minute. I'm trying to see where 18 you are here. 19 Q. Okay. You see on the front where it 20 says, "Approved: Jackie Graham"? 21 A. Okay. 22 Q. Okay. On the second page it talks about 23 your evaluation and that they wanted to</p>	<p style="text-align: right;">71</p> <p>1 Q. Okay. 2 A. I don't recall. 3 Q. Okay. This letter purports they provided 4 Mr. Everett a copy of the hearing record, 5 their efforts to straighten it out with 6 State Personnel. And they informed him 7 that they couldn't do anything about your 8 dissatisfaction with the Wiggins Law 9 Firm? 10 A. Um-hum. 11 Q. Now, with regards to Mr. Horace, your 12 allegations against him were that you 13 were sexually harassed by Mr. Horace? 14 A. Um-hum. 15 MR. LEWIS: You have to say "yes." 16 A. Yes. 17 (The referred-to document was 18 marked for identification as 19 Defendants' Exhibit No. 5) 20 Q. (By Mr. Lyles) I remember a bunch of 21 records I've looked at that there was 22 also some contentions that there were 23 improper things said in the office that</p>
<p style="text-align: right;">70</p> <p>1 adjust your evaluations? 2 A. Um-hum. 3 Q. Okay. So once that came to light, the 4 Department tried to do something about 5 it; didn't it? 6 A. Um-hum. 7 Q. Okay. 8 MR. LEWIS: You have to say "yes" 9 or "no." 10 A. Yes. 11 Q. (By Mr. Lyles) Of course, Mr. Morris 12 wrote that letter to the Personnel 13 Director and tried to get it straightened 14 out; is that right? 15 A. (Witness nods head) 16 MR. LEWIS: Object to form. 17 Q. (By Mr. Lyles) Does that letter appear to 18 be from Dan Morris? 19 A. Yes. 20 Q. And have you ever seen the letter that 21 Mr. Morris wrote Congressman Terry 22 Everett? 23 A. I would have to see it.</p>	<p style="text-align: right;">72</p> <p>1 shouldn't have been. There was a lot of 2 joking and carrying on that shouldn't 3 have gone on in mixed company. Was that 4 part of your complaint? Things were said 5 to the women that shouldn't have been 6 said to them? 7 A. Things were said to me that shouldn't 8 have been. 9 Q. Okay. There was something about an 10 incubus and a succubus or something like 11 that. Do you remember any of that? 12 A. I don't remember. 13 Q. Do you know what any those words mean? 14 A. Yes. 15 Q. What do they mean? 16 A. Incubus -- one of them means it's an evil 17 spirit that has sexual intercourse with 18 you while you sleep. One of them means a 19 female spirit that has sexual intercourse 20 with you while you sleep. I don't recall 21 which is which. 22 Q. Did you ever tell the folks that you had 23 dreams about those entities?</p>

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<p>73</p> <p>1 A. No.</p> <p>2 Q. Do you remember discussions about that in</p> <p>3 the office?</p> <p>4 A. Not in that office, no.</p> <p>5 Q. In some office?</p> <p>6 A. Someone gave us -- another employee gave</p> <p>7 us the definition of the words.</p> <p>8 Q. Now, let's go back to what you said about</p> <p>9 Mr. Waits and Mr. Horace. Your</p> <p>10 contention is that Mr. Waits didn't do</p> <p>11 anything about your allegations about Mr.</p> <p>12 Horace; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. Why do you think that was?</p> <p>15 A. Other than he didn't care?</p> <p>16 Q. Well, if that's the reason, tell me that.</p> <p>17 You feel like he didn't care?</p> <p>18 A. And because I was black.</p> <p>19 Q. And why do you think that?</p> <p>20 A. Because I honestly felt that he wouldn't</p> <p>21 have let a white female suffer like I did</p> <p>22 for as long as I did.</p> <p>23 Q. And why did you feel that?</p>	<p>75</p> <p>1 Q. Somebody told you that?</p> <p>2 A. Yes. The young man himself.</p> <p>3 Q. You don't remember his name?</p> <p>4 A. No. I think it may have been something</p> <p>5 like Emmett or something. I'm not</p> <p>6 sure.</p> <p>7 Q. Okay. What other reasons do you think</p> <p>8 that Mr. Waits didn't like black</p> <p>9 people?</p> <p>10 A. Also because Karen Stacey had said that</p> <p>11 that was one of the reasons that they had</p> <p>12 fallen out, because she noticed how he</p> <p>13 was taking his position using it against</p> <p>14 Blacks.</p> <p>15 Q. Okay.</p> <p>16 A. And that his father would have turned</p> <p>17 over in his grave if he had known that</p> <p>18 Mr. Waits had gotten to this extent.</p> <p>19 Q. You said, "They had fallen out?" Who had</p> <p>20 fallen out? Ms. Stacey?</p> <p>21 A. Yes.</p> <p>22 Q. And Mr. Waits?</p> <p>23 A. Yes.</p>
<p>74</p> <p>1 A. Just from his personality, what I have</p> <p>2 observed of him.</p> <p>3 Q. Tell me what, in his personality, made</p> <p>4 you feel like he wouldn't let a white</p> <p>5 female go through that?</p> <p>6 A. He didn't seem to care for Blacks very</p> <p>7 well.</p> <p>8 Q. Give me some examples of that.</p> <p>9 A. There was a young man that worked for him</p> <p>10 who had a white wife, who Mr. Waits</p> <p>11 seemed to have had a problem with that</p> <p>12 situation.</p> <p>13 Q. Who was the young man?</p> <p>14 A. I can't recall his name at this time.</p> <p>15 Q. What happened that you feel like Mr.</p> <p>16 Waits had a problem with that?</p> <p>17 A. They got ready to get a divorce or</p> <p>18 separation. And the wife had been going</p> <p>19 through some abuse with the husband. And</p> <p>20 it got back to the gentleman that Mr.</p> <p>21 Waits had made the statement that,</p> <p>22 "That's what the woman had gotten.</p> <p>23 That's what he got from marrying an N."</p>	<p>76</p> <p>1 Q. Were they on bad terms?</p> <p>2 A. I would assume so for her to make the</p> <p>3 statement.</p> <p>4 Q. Did she say, "That's where we fell</p> <p>5 out"?</p> <p>6 A. Says she stopped speaking to him. So</p> <p>7 apparently they had fallen out at that</p> <p>8 point.</p> <p>9 Q. Yesterday your lawyer asked if</p> <p>10 Mr. Jackson and Mr. Waits had any</p> <p>11 relationship with Ms. Stacey. Do you</p> <p>12 contend that they did or there was some</p> <p>13 kind of favoritism because of some kind</p> <p>14 of personal relationship?</p> <p>15 A. When I came to the Department, rumor had</p> <p>16 it that Mr. Waits and Ms. Stacey had an</p> <p>17 ongoing relationship.</p> <p>18 Q. What do you mean?</p> <p>19 A. That they were having a relationship, an</p> <p>20 affair.</p> <p>21 Q. Rumor had it. Who was spreading the</p> <p>22 rumors?</p> <p>23 A. Everybody.</p>

19 (Pages 73 to 76)

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<p style="text-align: right;">77</p> <p>1 Q. Everybody. Everybody you talked to in 2 the entire Department told you -- 3 A. Everywhere you went. 4 Q. Tell me one person that told you that. 5 A. She was the first person to tell me 6 herself, Karen. 7 Q. Karen said, "Guess what? I am having an 8 affair with Mark Waits." 9 A. She said that's what was being spread 10 about her. 11 Q. Did she say it was true? 12 A. No, she did not. 13 Q. Who else besides Karen told you about 14 it? 15 A. There were two women that worked in the 16 Division Office at the time. 17 Q. Who were they? 18 A. One name was Pat. And I don't remember 19 the black lady's name that worked 20 there. 21 Q. What did they say? 22 A. They said that she and Mark were having 23 an affair.</p>	<p style="text-align: right;">79</p> <p>1 watch herself? 2 A. Yes. 3 Q. Who told you to do that? 4 A. Mr. Jackson. 5 Q. What did he say? 6 A. He told me to pull Reeser to the side and 7 let her know, because Mark was after 8 her. 9 Q. Okay. When did that happen? 10 A. That happened about the second day she 11 had arrived. 12 Q. Okay. How long had you been there at the 13 point? 14 A. I'm not sure. Maybe -- I'm not sure. 15 Q. Okay. What did you think when he told 16 you that? 17 A. What did I think about -- 18 Q. Did you think it was true? Did you think 19 it was weird he was telling you that? 20 Did you think there is something to worry 21 about? Did you think he was nuts? What 22 did you think? 23 A. What I thought, I thought it was a</p>
<p style="text-align: right;">78</p> <p>1 Q. How did they know that? 2 A. They worked with her. 3 Q. How did they know that from working with 4 her? Did they say she told them? 5 A. I don't know. I didn't entertain it. 6 Q. As far as you know, that was just 7 something somebody made up and was 8 talking about? 9 A. Exactly. 10 Q. Okay. You don't know whether it's true 11 or not? 12 A. No. 13 Q. You are not trying to say that, based on 14 that relationship, that Ms. Stacey got 15 any kind of favoritism or anything? 16 A. I based it on whatever relationship they 17 had. 18 Q. Okay. Did -- okay. We kind of got off 19 track, which is my fault. I am bad about 20 that. I asked you the two-part question 21 that your lawyer pointed out to me. The 22 second part was about you being told to 23 take Ms. Knight aside and told her to</p>	<p style="text-align: right;">80</p> <p>1 fact. 2 Q. Why did you think that? 3 A. Because I knew what I was experiencing 4 from Mr. Waits, him telling people that I 5 was a troublemaker. 6 Q. Who did he tell? 7 A. People in his office. He had made that 8 statement to females in his office. 9 Q. Do you hear him say it? 10 A. No, I didn't. 11 Q. Who told you he said it? 12 A. One of the women that worked in the 13 office with me. 14 Q. Who was that? 15 A. I don't know. I don't recall her name. 16 Q. She came up and said, "Mark Waits said 17 you are a troublemaker"? 18 A. No. She came up -- I spoke to her. She 19 said, "Hey, troublemaker." 20 Q. Okay. 21 A. I said, "Troublemaker." She said, "Yes." 22 I said, "Where did you get that from?" 23 She says, "Well, Mark says you are." I</p>

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<p>81</p> <p>1 said, "Why would he say that?" She said, 2 "I don't know." 3 Q. Now, the day that Mr. Jackson warned you 4 to watch yourself, when was that? 5 A. That was when he had the conversation 6 with me right when I started working with 7 him. 8 Q. Did you know him before you started 9 working there? 10 A. Mr. Jackson? 11 Q. Um-hum. 12 A. I had seen him. I didn't know him 13 personally. 14 Q. He was telling you to watch out because 15 his boss was after you? 16 A. Yes. 17 Q. Did it kind of strike you as strange that 18 before he even knew you or knew he could 19 trust you from the first day on your job, 20 something like that? 21 A. It wasn't the first day on the job. And, 22 no, it did not strike me as strange. 23 Q. Why?</p>	<p>83</p> <p>1 seemed to have always been kind and 2 polite. I didn't know him. 3 Q. You later learned that that just wasn't 4 the real Mr. Jackson; is that right? 5 A. Exactly. 6 Q. After all, he was a racist and a 7 sexist? 8 MR. LEWIS: Object to the form. 9 Q. (By Mr. Lyles) Go ahead and answer, 10 please, ma'am. 11 A. He is. 12 Q. How did you and Karen come to drive 13 together and spend so much time 14 together? 15 A. Actually, it got started because of the 16 rumors that had been put out about she 17 and Mark. And pretty much she started 18 sticking to herself, staying to herself 19 after that. And she said that whatever 20 office she went in, there was always talk 21 about her. And she was just staying 22 alone. So I had met her when I first 23 started working for the State. And when</p>
<p>82</p> <p>1 A. Because he knew at that time that Ms. 2 Stacey and I were supposed to have been 3 friends. 4 Q. Okay. But I mean, you would agree with 5 me that if Mr. Jackson said that, what 6 you said about Mr. Waits and Mr. Waits 7 found out about that, and he wouldn't be 8 real happy about it; would he? 9 A. I don't think he would. 10 Q. Yet, you think Mr. Jackson risked his job 11 to come tell you that and he hardly knew 12 you? 13 MR. LEWIS: Object to the form. 14 Q. (By Mr. Lyles) You can answer. 15 A. I don't think Mr. Jackson thought it 16 would ever come up again since he 17 considered himself doing me a favor by 18 telling me. 19 Q. This was before you began thinking he was 20 a racist; is that right? 21 A. I began thinking that he wasn't a racist 22 by seeing him in the momings. We would 23 end up crossing each other's path, and he</p>	<p>84</p> <p>1 I ended up coming out there to 2 Mr. Jackson's office -- actually, when I 3 came to the office where Mr. Jackson was, 4 I wasn't immediately under his 5 supervision. 6 Q. Okay. 7 A. I was under another Project Engineer's 8 supervision that shared that same office. 9 And because of the fact that I seemed to 10 have been the only one who she could talk 11 to, and the only one who gave her the 12 benefit of the doubt about this so-called 13 affair, this is how she and I ended up 14 spending time together. 15 Q. Okay. She would sometimes bring you to 16 work? 17 A. Excuse me. 18 Q. Sometimes she would give you a ride to 19 work? 20 A. Yes. 21 Q. And you would go to lunch together? 22 A. Yes. 23 Q. She would buy lunch sometimes?</p>

21 (Pages 81 to 84)

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<p style="text-align: right;">85</p> <p>1 A. Yes. I bought hers sometimes. 2 Q. She bought you breakfast sometimes? 3 A. Yes. 4 Q. Bought your cigarettes? 5 A. Um-hum. 6 Q. Okay. Do you have a driver's license? 7 A. Yes. 8 Q. She just gave you a ride to work just to 9 help you out or just to be nice? 10 A. It all depends. It might have been 11 something wrong with my car one day or 12 whatever. 13 Q. All right. Jay, we have going for a 14 little over an hour. Do you mind if we 15 take a break about 15 minutes? 16 MR. LEWIS: Sure. 17 (Short recess) 18 Q. (By Mr. Lyles) As you know, this is a 19 continuation of the deposition we started 20 this morning. You have been placed under 21 oath and so forth. We are just going on 22 with that. 23 There was some questions</p>	<p style="text-align: right;">87</p> <p>1 everything that had happened, that she 2 missed my friendship and wanted to tell 3 me that she didn't think things would go 4 that far. She said -- she apologized and 5 said she was sorry and that Mr. Estes, 6 Mr. Waits were the two initiators. And 7 that Mr. Jackson, he was also present. 8 And that they came and got her on the job 9 site and rode with her. They rode her 10 through the job site and they were trying 11 to get her to gather some information 12 together to come up to build a case up 13 against me. She said that she stated to 14 them that she would have no part of 15 that. 16 Q. Okay. When did y'all have this 17 conversation? 18 A. That was in November. 19 Q. November of '05? 20 A. Yes. 21 Q. Okay. Your information about this 22 conversation comes from Ms. Stacey; is 23 that what you are saying?</p>
<p style="text-align: right;">86</p> <p>1 about Ms. Stacey, Mr. Waits, Mr. Jackson 2 and Mr. Estes riding somewhere together 3 and Ms. Stacey being encouraged to come 4 up with something on you. Do you 5 remember that? 6 A. Yes. 7 Q. What are you saying happened? 8 A. This is what Ms. Stacey told me in 9 November. 10 Q. Okay. Tell me what she told you? 11 A. She and I ended up having to arrive back 12 together to the office. She had and I 13 had not been riding together. I rode 14 with her. Came back to the office. Once 15 we got into the office -- because I 16 always remain professional and civil to 17 her. 18 Q. Um-hum. 19 A. I went on back in the back to make a 20 call. She stood there waiting. After I 21 got off the phone, she asked me could she 22 talk to me. I told her, "Yes." She told 23 me that she just wanted to apologize for</p>	<p style="text-align: right;">88</p> <p>1 A. Yes. 2 Q. When she apologized to you, did you tell 3 her you accepted her apology? 4 A. Yes. 5 Q. How much later was this that she left the 6 Department? 7 A. I'm not sure. 8 Q. Okay. When you left the Department, did 9 you tell Ms. Stacey not to be offended by 10 anything that happened after you left? 11 A. Ask the question again. 12 Q. When you left the Department, did you 13 have a conversation with Ms. Stacey 14 wherein you told her not to be offended 15 by anything that happened or that you 16 brought up after she left -- after you 17 left the Department? 18 A. No. 19 Q. It didn't happen? 20 A. No. 21 Q. If she says it did, is she mistaken about 22 that too? 23 A. She lied about that.</p>

22 (Pages 85 to 88)

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<p>89</p> <p>1 Q. She lied about that. There is some 2 questions about points being taken off 3 your evaluation because you failed an ACI 4 test. 5 A. Yes. 6 Q. Tell me about that. 7 A. The only thing I know about that is that 8 is supposed to have been Mr. Waits' rule. 9 That if you did not pass it, that points 10 were supposed to be taken off. And it 11 was coming up on my expiration of my ACI 12 that I had to take that again. And I 13 passed part, and I didn't pass the other 14 part. 15 Q. Okay. 16 A. And I had -- also, I had written the lady 17 who held the class, where we had a class 18 on appraisals who had told us that the 19 supervisors were not supposed to be able 20 to take off points on your appraisals -- 21 Q. Okay. 22 A. -- if we did not pass because those 23 classes were court-appointed. So I had</p>	<p>91</p> <p>1 little scribbblings from which I typed 2 from. 3 Q. Okay. 4 MR. LYLES: Jay, and you and I can 5 talk about that later. 6 MR. LEWIS: Okay. 7 Q. (By Mr. Lyles) Did you have any 8 recordings? Did you record any telephone 9 conversations? 10 A. No. 11 Q. Did you keep a diary? 12 A. No. 13 Q. Did you keep notes? 14 A. Yes. 15 Q. What kind of notes? 16 A. Just things that happened daily. 17 Q. What did you write them on? 18 A. Whatever I had at that time. 19 Q. You kept like scraps of paper? 20 A. Yes. 21 Q. What would you do with those scraps of 22 paper? 23 A. I would take it and write into a</p>
<p>90</p> <p>1 e-mailed her. At any rate, apparently -- 2 Q. What was that lady's name; do you 3 remember? 4 A. No, but I have it on record. 5 Q. You have it on record. What do you mean 6 by "you have it on record"? 7 A. I have it in a file at the house. 8 Q. Let me ask you about that file. Do you 9 have some like notes or diaries, tape 10 recordings, anything like that about the 11 things that you contend happened at 12 ALDOT? 13 A. I may have some notes. 14 Q. You said you had a file. Ms. Butler, you 15 either got them or you don't. Do you 16 have any such documents? 17 A. What I meant by that, I may have turned 18 it over to my attorney. 19 Q. Did your lawyer tell you that your notice 20 for today asked that you bring those 21 things with you? 22 A. No. What I have, my attorney has. The 23 only thing that I have personally may be</p>	<p>92</p> <p>1 tablet. 2 Q. Where is the tablet right now? 3 A. I don't know. I typed it up. I didn't 4 have any use for it. 5 Q. Are you saying you threw it away? 6 A. It may be at the house somewhere. 7 Q. Will you look for that and turn it over 8 to your lawyer? 9 A. Yes. 10 Q. When you typed it, did you do it on a 11 word processor? Computer? 12 A. Yes. 13 Q. Okay. Did you make a disk or anything 14 like that? 15 A. No. 16 Q. What did you do with what you typed up? 17 A. My attorney has it. 18 Q. Okay. What does that form come in? Is 19 it like a document where you printed it 20 out? Is it on a floppy disk? 21 A. It's where I printed it out. 22 MR. LEWIS: Harry, let me stop 23 right there and say, there</p>

23 (Pages 89 to 92)

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<p style="text-align: right;">93</p> <p>1 are some documents that I</p> <p>2 have that were done by</p> <p>3 Ms. Butler. They were done</p> <p>4 in the course of the</p> <p>5 attorney-client relationship</p> <p>6 for the purposes of informing</p> <p>7 me.</p> <p>8 MR. LYLES: I understand that.</p> <p>9 You and I will work it out,</p> <p>10 even though I'm sure you know</p> <p>11 I'm entitled to every bit of</p> <p>12 it. But we will work it</p> <p>13 out.</p> <p>14 MR. LEWIS: I don't think so.</p> <p>15 Q. (By Mr. Lyles) We will work it out. Did</p> <p>16 you ever record any conversations? Like</p> <p>17 would you be talking to somebody and have</p> <p>18 a tape recorder with you?</p> <p>19 A. I did at one time, yes.</p> <p>20 Q. What did you do with those recordings?</p> <p>21 A. They got misplaced.</p> <p>22 Q. Do you know where they are?</p> <p>23 A. They got misplaced.</p>	<p style="text-align: right;">95</p> <p>1 in August of 2005 and going through it.</p> <p>2 A. Um-hum.</p> <p>3 Q. Are you saying that she did do that?</p> <p>4 A. I don't recall what that was in reference</p> <p>5 to.</p> <p>6 Q. August 30th, 2005, she was asked if she</p> <p>7 went through your personnel file?</p> <p>8 A. I don't recall what it was in reference</p> <p>9 to. Apparently Jay was looking at some</p> <p>10 of the paperwork.</p> <p>11 Q. As we sit here today about the</p> <p>12 allegations you are making, there is not</p> <p>13 an incident that you know about?</p> <p>14 A. Not right off.</p> <p>15 Q. Okay. All right. Let me ask you about</p> <p>16 one thing that bothers me about this</p> <p>17 thing about the accident and so forth.</p> <p>18 You told me what Ms. Stacey yelled.</p> <p>19 A. Um-hum.</p> <p>20 Q. She made some other remarks about the</p> <p>21 gentleman when he was trying to direct</p> <p>22 the traffic. Who did you tell about</p> <p>23 that?</p>
<p style="text-align: right;">94</p> <p>1 Q. I understand that.</p> <p>2 A. No.</p> <p>3 Q. Are you going to look for them between</p> <p>4 now and the time we try this case?</p> <p>5 A. Yes.</p> <p>6 Q. When you find them, would you agree to</p> <p>7 give them to your lawyer and let him</p> <p>8 decide whether I am entitled to see them?</p> <p>9 A. Yes.</p> <p>10 Q. Or hear them?</p> <p>11 A. Yes.</p> <p>12 Q. Any other kind of records that you might</p> <p>13 have kept, any files that you have got,</p> <p>14 copies of documents you have made or</p> <p>15 anything like that?</p> <p>16 A. Payroll of such.</p> <p>17 Q. Of your own?</p> <p>18 A. Yes.</p> <p>19 Q. But not for any other employees?</p> <p>20 A. No.</p> <p>21 Q. Let me ask you that, as long as we are</p> <p>22 talking about that. Ms. Stacey was asked</p> <p>23 some questions about looking at your file</p>	<p style="text-align: right;">96</p> <p>1 A. The only person that I told was Melvin</p> <p>2 Wynn.</p> <p>3 Q. Why didn't you tell Mr. Jackson?</p> <p>4 A. I tried to tell Mr. Jackson.</p> <p>5 Q. Did you fill out any kind of report on</p> <p>6 that?</p> <p>7 A. No.</p> <p>8 Q. Did you file any kind of grievance or any</p> <p>9 kind of complaint?</p> <p>10 A. No.</p> <p>11 Q. Did it offend you?</p> <p>12 A. Yes.</p> <p>13 Q. With all due respect, when you feel like</p> <p>14 you have been slighted, you don't</p> <p>15 hesitate to file a grievance or a</p> <p>16 complaint. I think you agree with me on</p> <p>17 that.</p> <p>18 A. Yes, I would.</p> <p>19 Q. I still don't understand why you didn't</p> <p>20 file something about that incident until</p> <p>21 over -- when you got a reprimand. That</p> <p>22 was months later.</p> <p>23 A. Mr. Jackson asked me did I want to file a</p>

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<p style="text-align: right;">97</p> <p>1 grievance.</p> <p>2 Q. Okay. What did you tell him?</p> <p>3 A. I told him, "No." I also told him</p> <p>4 because they weren't going to do</p> <p>5 anything, specifically Mr. Waits. So</p> <p>6 that's why I did not file one.</p> <p>7 Q. I'm sorry. Go ahead. That's why you</p> <p>8 didn't?</p> <p>9 A. File it.</p> <p>10 Q. Okay. The incidents before that</p> <p>11 occasion, and the incidents after that</p> <p>12 occasion, you thought they might do</p> <p>13 something about those; is that right?</p> <p>14 A. The ones prior?</p> <p>15 Q. Um-hum.</p> <p>16 A. The first one, yes. Even the second one,</p> <p>17 knowing that I had as many witnesses and</p> <p>18 as much facts as I had, I thought perhaps</p> <p>19 he would.</p> <p>20 Q. Mr. Horace they definitely did something</p> <p>21 about that; didn't they?</p> <p>22 A. After two years, ten months and 14 days,</p> <p>23 yes.</p>	<p style="text-align: right;">99</p> <p>1 Horace said I was sleeping with him</p> <p>2 too.</p> <p>3 Q. George Shields.</p> <p>4 A. Um-hum.</p> <p>5 Q. And you told Mark Waits that Mr. Horace</p> <p>6 had said that about you?</p> <p>7 A. Yes.</p> <p>8 Q. In front of these people, you said it?</p> <p>9 A. Yes.</p> <p>10 Q. And Mr. Waits didn't do anything?</p> <p>11 A. No.</p> <p>12 Q. Did any of those people come up and ask</p> <p>13 you, "Hey, how is it going? What's he</p> <p>14 doing? Are they doing anything about</p> <p>15 it?" These witnesses that you say were</p> <p>16 there, did they ever come and ask you</p> <p>17 whether Mr. Waits was doing anything?</p> <p>18 A. Not to my knowledge. I don't recall</p> <p>19 that.</p> <p>20 Q. All right. Well, how did Mr. Waits come</p> <p>21 to investigate that thing or interview</p> <p>22 people? Do you have any idea?</p> <p>23 A. To my knowledge, Mr. Waits did not</p>
<p style="text-align: right;">98</p> <p>1 Q. The man got fired. You got your</p> <p>2 evaluation straightened out.</p> <p>3 A. At that point the damage had been done.</p> <p>4 I remained in that environment for two</p> <p>5 years, ten months and 14 days.</p> <p>6 Q. When should they have done something</p> <p>7 about it?</p> <p>8 A. When it was immediately reported.</p> <p>9 Q. Who did you report it to initially?</p> <p>10 A. Mr. Wait.</p> <p>11 Q. What did you say?</p> <p>12 A. I told him that Mr. Horace was making</p> <p>13 sexual comments. Mr. Horace -- we were</p> <p>14 in a meeting in Mr. Waits' office and</p> <p>15 that Mr. Horace was even saying that all</p> <p>16 of the guys were sleeping with me. At</p> <p>17 that time, when I made that statement to</p> <p>18 Mr. Waits, two or three of the guys were</p> <p>19 in there then.</p> <p>20 Q. Which guys?</p> <p>21 A. One was Michael Camburis, one was Xavier</p> <p>22 Davis, George Shields had been out that</p> <p>23 day. But I also had told him that Mr.</p>	<p style="text-align: right;">100</p> <p>1 investigate that.</p> <p>2 Q. Okay. You are sure about that?</p> <p>3 A. To the best of my knowledge, Mr. Waits</p> <p>4 did not.</p> <p>5 Q. Remember we heard some questions about an</p> <p>6 altercation between Ms. Stacey and David</p> <p>7 Jones. Do you remember that?</p> <p>8 A. Which one?</p> <p>9 Q. Tell me about whatever you know about</p> <p>10 altercations between Ms. Stacey and David</p> <p>11 Jones.</p> <p>12 A. Ms. Stacey would always pretty much -- I</p> <p>13 guess Mr. Jones got the worst of her</p> <p>14 lashing. He asked her -- on working from</p> <p>15 the latter, the latest thing that I knew</p> <p>16 she had done to him that she went off on</p> <p>17 him about was she had asked him to lock</p> <p>18 the gate when he got ready to leave. And</p> <p>19 apparently Mr. Jones forgot to lock the</p> <p>20 gate. So the next morning when Mr. Jones</p> <p>21 returned, she cursed him out again. And</p> <p>22 it got kind of heated, and Mr. Jones had</p> <p>23 really gotten upset. So I asked her to</p>

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<p style="text-align: right;">101</p> <p>1 be quiet, that she was provoking -- I</p> <p>2 told her that she was provoking him.</p> <p>3 Because at that point he was becoming a</p> <p>4 little bit irate. So he told me he was</p> <p>5 tired of her doing this to him. I pulled</p> <p>6 Mr. Jones back into another room and told</p> <p>7 him, you know, "Not to go there. Just</p> <p>8 talk to Todd about it."</p> <p>9 Q. Okay. And who was David Jones?</p> <p>10 A. David Jones, the office personnel.</p> <p>11 Q. Okay. Where is he now; do you know?</p> <p>12 A. No.</p> <p>13 Q. Okay. Have you talked to him since you</p> <p>14 left the Department?</p> <p>15 A. No.</p> <p>16 Q. Okay. Was he a black man or a white</p> <p>17 man?</p> <p>18 A. White male.</p> <p>19 Q. Okay. How old was he approximately?</p> <p>20 A. Approximately 40.</p> <p>21 Q. I have some questions too about you</p> <p>22 getting a letter about having low leave</p> <p>23 time. Did you get a letter from</p>	<p style="text-align: right;">103</p> <p>1 except Mr. Feagin who passed.</p> <p>2 Q. Okay. Do you know how many people got</p> <p>3 letters like that?</p> <p>4 A. No.</p> <p>5 Q. Do you know whether or not Ms. Stacey got</p> <p>6 one?</p> <p>7 A. No. I am not aware of anyone else who</p> <p>8 had gotten one.</p> <p>9 Q. Actually, tell me again. What does that</p> <p>10 show that you got that letter as far as</p> <p>11 your allegations in this lawsuit and so</p> <p>12 forth? Are you saying they were doing</p> <p>13 that to harass you?</p> <p>14 A. Yes.</p> <p>15 Q. If other people got the same letter,</p> <p>16 would you still that say you got yours</p> <p>17 because you were being harassed?</p> <p>18 A. Yes.</p> <p>19 Q. Why is that?</p> <p>20 A. Because, as I stated earlier, my time</p> <p>21 pretty much stayed the same. And it</p> <p>22 struck me kind of odd that after two</p> <p>23 years, after I filed a grievance and all,</p>
<p style="text-align: right;">102</p> <p>1 Mr. Jackson?</p> <p>2 A. Yes.</p> <p>3 Q. What do you feel like was wrong with him</p> <p>4 sending you a letter like that?</p> <p>5 A. My leave time had pretty much been in the</p> <p>6 same arena the whole time I worked for</p> <p>7 him. It took two years for him all of a</p> <p>8 sudden to have a problem with it.</p> <p>9 Q. All right. Did he explain to you that</p> <p>10 there was fewer people working so that he</p> <p>11 had to make sure that people who were on</p> <p>12 the job didn't have as much leeway as</p> <p>13 they did when he had a larger number of</p> <p>14 people working for him?</p> <p>15 A. He didn't explain anything to me about</p> <p>16 that.</p> <p>17 Q. Is that true?</p> <p>18 A. What?</p> <p>19 Q. Were there more people working for him</p> <p>20 during the initial part of that two-year</p> <p>21 period you are talking about and fewer</p> <p>22 people on your crew there at the last?</p> <p>23 A. I don't recall anyone not being present,</p>	<p style="text-align: right;">104</p> <p>1 all of a sudden there was a problem.</p> <p>2 Q. Okay. That's what you base your</p> <p>3 assertion on that that was done in</p> <p>4 retaliation and--</p> <p>5 A. Yes.</p> <p>6 Q. -- it struck you as odd that that</p> <p>7 happened after --</p> <p>8 A. Yes.</p> <p>9 Q. -- that period of time? You say your</p> <p>10 leave stayed about the same. How much</p> <p>11 did you have?</p> <p>12 A. I don't know the exact number.</p> <p>13 Q. How much leave did you accumulate at that</p> <p>14 point in time?</p> <p>15 A. I don't recall. I'm not sure.</p> <p>16 Q. How many years had you been with the</p> <p>17 Department?</p> <p>18 A. At that time, 11.</p> <p>19 Q. At that time, 11. Okay. Let me see.</p> <p>20 After five years you start getting five</p> <p>21 hours annual leave every pay period; is</p> <p>22 that right?</p> <p>23 A. I don't remember. It may have been seven</p>

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<p>105</p> <p>1 annual and four sick. But I'm not 2 exactly sure about that. 3 Q. Every two-week pay period you would get 4 seven hours annual leave and four hours 5 sick leave approximately? 6 A. Yes. 7 Q. And then that leave would accumulate if 8 you didn't use it? 9 A. Right. 10 Q. In order to use all of your leave, you 11 would have to be out, what, about 22 12 hours every month; right? You have to be 13 out close to three days out of each 14 month? 15 A. I guess, yes. 16 Q. This David Jones you told me about, he 17 was like the office manager? 18 A. Yes. 19 Q. Would he be the last one to leave the 20 office? 21 A. No. 22 Q. How come he was supposed to lock the 23 gate?</p>	<p>107</p> <p>1 to the engineer? 2 A. Yes. 3 Q. What are estimates; do you know? 4 A. I am assuming that he is speaking of the 5 monthly estimate that's sent out to the 6 contractors for the work performed. 7 Q. Were you involved in computing those? 8 A. Some, yes. Very little. 9 Q. Did you ever have any conversations with 10 Mr. Waits about those? 11 A. Yes. 12 Q. What was the substance of that 13 conversation? 14 A. Actually, he was talking to me and Ms. 15 Stacey, and he mentioned to Ms. Stacey 16 about beginning to teach me how to do 17 them. 18 Q. Okay. Did she do that? 19 A. No. 20 Q. Okay. Did you ever get in trouble for 21 not knowing how to do them? 22 A. No. 23 Q. Let me ask you something about this</p>
<p>106</p> <p>1 A. This particular day, I don't know if we 2 had left early. I don't recall what it 3 was, but we were all leaving. It may 4 have been a rain day perhaps and we were 5 leaving early. 6 Q. Is it your testimony that Mr. Jones and 7 Ms. Stacey were not usually the ones who 8 were the last to leave the office? Would 9 that be true? 10 A. No. 11 MR. LEWIS: Could you clarify that 12 question? 13 Q. (By Mr. Lyles) Okay. If Ms. Stacey says 14 that she and Mr. Jones were usually the 15 last ones to leave the office, would she 16 be incorrect? 17 A. She would be incorrect. 18 Q. All right. And there was some questions 19 about a conversation between you and Mark 20 Waits about estimates. Do you remember 21 those questions, and do you know what 22 that's about? Were you required to do 23 estimates and give them to Mr. Waits or</p>	<p>108</p> <p>1 certification we are talking about. 2 A. Um-hum. 3 Q. Did you at some point complain to Ms. 4 Stacey that there was some gentleman that 5 got to take his certification test 6 separate from everybody else? Got to go 7 in like an office and take it? 8 A. No. My exact words were, "There were 9 people who were taking their test in the 10 coordinator's office." 11 Q. Okay. Let me ask you a couple of things 12 about that. Who were the people? 13 A. David Jones was one of them. 14 Q. Was he related to anybody then? 15 A. He was married to the training 16 coordinator. 17 Q. Okay. And he got to take it in an 18 office? 19 A. Right. 20 Q. What is the significance of getting to 21 take it in the office? 22 A. Well, there is no one there but you and 23 the coordinator.</p>

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<p style="text-align: right;">109</p> <p>1 Q. Which means? Are you saying he 2 cheated? 3 A. You can cheat. I don't see any other 4 need for you to take it behind closed 5 doors. 6 Q. Are you saying that Mr. Jones cheated? 7 A. I'm not saying that Mr. Jones cheated 8 because I wasn't in there. I'm saying 9 Mr. Jones unfairly took the test. 10 Q. Okay. Did you tell Ms. Stacey that the 11 reason you failed the test was to see if 12 they would let you go in the 13 coordinator's office and retake it? 14 A. No. 15 Q. Never said that? 16 A. No. 17 Q. Did you tell them that you were testing 18 them to see if you got special 19 arrangements on taking a retest like Mr. 20 Jones did? 21 A. No. 22 Q. Never told her that? 23 A. No.</p>	<p style="text-align: right;">111</p> <p>1 purpose? 2 A. No. 3 Q. But you passed it the first time and you 4 failed it, what, two more times? 5 A. I don't think I took it but one other 6 time. 7 Q. Okay. You're testifying here today that 8 you did the best you could on it? 9 A. Yes. I even organized study groups. 10 Q. Okay. How did the people do that were in 11 your study group? 12 A. I don't know. 13 Q. Mr. Waits was asked some questions about 14 events that purportedly happened prior to 15 the confrontation on the job site between 16 you and Ms. Stacey. Okay. 17 A. Um-hum. 18 Q. Do you contend that even prior to that 19 that he called employees and asked them 20 about you and your work performance? 21 A. I don't understand the question. Would 22 you repeat it? 23 Q. As part of your lawsuit, do you contend</p>
<p style="text-align: right;">110</p> <p>1 Q. She is mistaken if she says you told her 2 that? 3 A. No. She lied. 4 Q. She lied. She lies a lot; doesn't she? 5 A. Sure does. 6 MR. LYLES: Object. 7 Q. (By Mr. Lyles) Okay. Did you ever tell 8 Mr. Waits, or intimate to Mr. Waits, that 9 you failed that test on purpose? 10 A. No. 11 Q. Never said that? 12 A. No. 13 Q. Did you ever write him a note saying you 14 did? 15 A. No. I told -- what my letter said was 16 that it had caused me a lot of stress 17 taking the test. I also mentioned to him 18 it's the same statement pretty much that 19 I made to Ms. Stacey about it being 20 unfair that they had people going behind 21 closed doors taking it and everybody else 22 was stressing out taking it. 23 Q. Okay. Did you fail the test on</p>	<p style="text-align: right;">112</p> <p>1 that Mr. Waits improperly called 2 employees and asked them if you would be 3 a troublemaker? 4 A. Asked if I would be a troublemaker? 5 Q. Um-hum. 6 A. No. Did they think that I was creating a 7 hostile work environment. 8 Q. When did he do that? 9 A. During the time that he was calling 10 people in in reference to the 11 altercation. 12 Q. Okay. So that happened after the 13 altercation? 14 A. Yes. 15 Q. As far as you know. Okay. Mr. Waits was 16 asked if there was a conversation between 17 him and Ms. Stacey about ways to get rid 18 of you. Are you contending that he and 19 Ms. Stacey talked about ways to run you 20 off or to get you fired? 21 A. Would you repeat that? 22 Q. Did Ms. Stacey ever tell you that Mr. 23 Waits had asked her about ways to get rid</p>

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<p>113</p> <p>1 of you?</p> <p>2 A. No.</p> <p>3 Q. Or if there was any way to get rid of</p> <p>4 you?</p> <p>5 A. No. I don't recall.</p> <p>6 Q. I'm sorry.</p> <p>7 A. I don't recall.</p> <p>8 Q. Okay. Your ACI certificate, that was --</p> <p>9 you took it once and you passed the whole</p> <p>10 thing without any problem?</p> <p>11 A. Um-hum.</p> <p>12 Q. When that was about to expire, you had to</p> <p>13 retake it and you failed that?</p> <p>14 A. Um-hum. Parts of it.</p> <p>15 Q. Okay. Was there another time after that</p> <p>16 you were put in another class and you</p> <p>17 still failed it?</p> <p>18 A. I don't recall that.</p> <p>19 Q. There was some questions asked about</p> <p>20 whether hours were ever deducted from</p> <p>21 your time.</p> <p>22 A. Um-hum.</p> <p>23 Q. And that Ms. Knight -- was there a</p>	<p>115</p> <p>1 Q. Okay. Now, as a part of the ACI</p> <p>2 certification, is that a requirement that</p> <p>3 you do your job and grade prior to that</p> <p>4 test, that you had some experience in</p> <p>5 what you were taking the test about?</p> <p>6 A. I don't understand the question.</p> <p>7 Q. What was ACI certification? What were</p> <p>8 you being certified in?</p> <p>9 A. Concrete.</p> <p>10 Q. What about concrete?</p> <p>11 A. That's what the test was. Certification.</p> <p>12 You had to be certified in using it</p> <p>13 properly, or testing it properly,</p> <p>14 checking it properly.</p> <p>15 Q. In order to be eligible to take that</p> <p>16 test, wasn't it a requirement that you</p> <p>17 have actually hands-on experiences in</p> <p>18 doing those things?</p> <p>19 A. I don't recall that. They were -- this</p> <p>20 class was.</p> <p>21 Q. Okay. I asked the question improperly</p> <p>22 and I apologize.</p> <p>23 A. Okay.</p>
<p>114</p> <p>1 Mr. Wynn?</p> <p>2 A. Um-hum.</p> <p>3 Q. And Mr. Wynn because of statements that</p> <p>4 were made by Karen Stacey?</p> <p>5 A. Yes.</p> <p>6 Q. Are you contending that that did</p> <p>7 happen?</p> <p>8 A. Yes.</p> <p>9 Q. Was that the time we talked about earlier</p> <p>10 that the stuff was posted and the next</p> <p>11 day it would be different?</p> <p>12 A. Yes.</p> <p>13 Q. So you are just assuming that that was</p> <p>14 the cause that that was changed; is that</p> <p>15 right?</p> <p>16 A. Well, Todd would actually tell us that we</p> <p>17 didn't work those hours.</p> <p>18 Q. Would he say, "Karen told me you didn't"?</p> <p>19 A. No.</p> <p>20 Q. Okay. As far as Karen's involvement in</p> <p>21 it, that's an assumption on your part?</p> <p>22 A. Yes. Based on what she had done with</p> <p>23 other employees.</p>	<p>116</p> <p>1 Q. Part of the requirement for your position</p> <p>2 was that you be certified; is that right?</p> <p>3 A. For which position?</p> <p>4 Q. The position you were in.</p> <p>5 A. I don't think so. I was already there.</p> <p>6 Q. Okay. Did that EA II/III require that</p> <p>7 you be ACI certified?</p> <p>8 A. I don't think so.</p> <p>9 Q. What about if you were in certain</p> <p>10 classifications within that</p> <p>11 classification, certain job functions,</p> <p>12 were you required to be ACI certified?</p> <p>13 A. I'm not sure.</p> <p>14 Q. If you were like an inspector out on the</p> <p>15 site, you were supposed to be checking</p> <p>16 stuff. Was there a requirement that you</p> <p>17 be certified in that?</p> <p>18 A. I don't think so, because I wasn't always</p> <p>19 ACI certified.</p> <p>20 MR. LYLES: Mr. Lewis,</p> <p>21 would you and Ms. Butler</p> <p>22 give me about five minutes.</p> <p>23 I think I'm through.</p>

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<p>1 MR. LEWIS: Let me give you this.</p> <p>2 This, with the exception of</p> <p>3 materials that Ms. Butler, I</p> <p>4 think, prepared for her</p> <p>5 lawyers.</p> <p>6 MR. LYLES: Um-hum.</p> <p>7 MR. LEWIS: This is my entire</p> <p>8 client document file. You</p> <p>9 are welcome to have copies</p> <p>10 made for that.</p> <p>11 MR. LYLES: All right.</p> <p>12 (Short recess)</p> <p>13 Q. (By Mr. Lyles) Ms. Butler, some of the</p> <p>14 things that I've asked you about are to</p> <p>15 give me reasons that you came to the</p> <p>16 conclusion that Mr. Waits was a racist.</p> <p>17 Okay.</p> <p>18 A. Um-hum.</p> <p>19 Q. And we've talked about several things</p> <p>20 about him being -- if he was out to get</p> <p>21 somebody, he got them, so on and so</p> <p>22 forth. Other than what we talked about,</p> <p>23 have you got any other examples or</p>	<p>1 character as a human being.</p> <p>2 MR. LYLES: But you are saying</p> <p>3 that he acted based on race?</p> <p>4 MR. LEWIS: I am saying that he</p> <p>5 fulfilled the elements of</p> <p>6 Title 7, discrimination and</p> <p>7 retaliation claim. That's</p> <p>8 what we are saying. The</p> <p>9 Complaint speaks for</p> <p>10 itself.</p> <p>11 MR. LYLES: It is only because you</p> <p>12 are so much smarter than I am</p> <p>13 that you can see the</p> <p>14 difference between those two?</p> <p>15 MR. LEWIS: You have got --</p> <p>16 Q. (By Mr. Lyles) Any other reasons that you</p> <p>17 claim that Mr. Waits acted, or that his</p> <p>18 actions were based on racial</p> <p>19 discrimination?</p> <p>20 A. Not that I can recall at this time.</p> <p>21 Q. What about Mr. Jackson?</p> <p>22 A. Not that I can recall at this time.</p> <p>23 Q. Okay. Your attorney has been kind enough</p>
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<p>1 evidence that you can tell me about that</p> <p>2 would show that Mark Waits is a racist?</p> <p>3 MR. LEWIS: Let me object to the</p> <p>4 form of this, and let me</p> <p>5 explain the objection.</p> <p>6 MR. LYLES: Okay.</p> <p>7 MR. LEWIS: We have never claimed</p> <p>8 that Mark Waits is a racist.</p> <p>9 We have claimed that there</p> <p>10 was racial discrimination and</p> <p>11 retaliation.</p> <p>12 MR. LYLES: She said he was a</p> <p>13 racist at the beginning of</p> <p>14 the deposition.</p> <p>15 MR. LEWIS: I understand what she</p> <p>16 said, and she said it in</p> <p>17 response to your assertion</p> <p>18 that that's the way she felt.</p> <p>19 I am just clarifying for the</p> <p>20 record.</p> <p>21 MR. LYLES: Okay.</p> <p>22 MR. LEWIS: That we are making no</p> <p>23 aspersions on Mr. Waits'</p>	<p>1 to hand me an affidavit signed by</p> <p>2 Mr. Calvin Johnson?</p> <p>3 A. Um-hum.</p> <p>4 Q. What was the last time you talked to</p> <p>5 Mr. Johnson?</p> <p>6 A. What day did he come to your office?</p> <p>7 Q. This affidavit is dated January the 5th.</p> <p>8 MR. LEWIS: It's dated today.</p> <p>9 MR. LYLES: Here is what I am</p> <p>10 trying to get to, Jay.</p> <p>11 Obviously, we are going to</p> <p>12 have to depose him.</p> <p>13 MR. LEWIS: Sure.</p> <p>14 MR. LYLES: At some point, can I</p> <p>15 get with you and find out how</p> <p>16 to get in touch with him?</p> <p>17 MR. LEWIS: Yes.</p> <p>18 MR. LYLES: I'm not going to hold</p> <p>19 you responsible for producing</p> <p>20 him. Obviously, if y'all got</p> <p>21 an affidavit, you know where</p> <p>22 he is.</p> <p>23 MR. LEWIS: Right. Not a</p>

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<p>121</p> <p>)</p> <p>1 problem.</p> <p>2 MR. LYLES: We can skip that part,</p> <p>3 Ms. Butler.</p> <p>4 MR. LEWIS: I can tell you he came</p> <p>5 in one day last week.</p> <p>6 Q. (By Mr. Lyles) All right. Now, are you</p> <p>7 familiar with -- or do you know who Mr.</p> <p>8 Jackson's Chief Inspectors are at this</p> <p>9 point?</p> <p>10 A. No.</p> <p>11 Q. Do you know whether they are black or</p> <p>12 white?</p> <p>13 A. No.</p> <p>14 Q. How does one get to be a Chief Inspector?</p> <p>15 Are you chosen by the job foreman or the</p> <p>16 by the person in Mr. Jackson's</p> <p>17 position?</p> <p>18 A. They are chosen by the Project</p> <p>19 Engineer.</p> <p>20 Q. That would be Mr. Todd?</p> <p>21 A. Yes.</p> <p>22 Q. So whoever his Chief Inspectors are, he</p> <p>23 choose them; is that right?</p>	<p>123</p> <p>1 Q. Other than Mr. Johnson here at this time,</p> <p>2 do you know anybody that you would</p> <p>3 contend would be a witness to or support</p> <p>4 your contentions in this lawsuit?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Who would that be?</p> <p>7 A. That would be Reeser Knight.</p> <p>8 Q. Okay. Where is she now; do you know?</p> <p>9 A. Not exactly.</p> <p>10 Q. Okay. Who else?</p> <p>11 A. Peter Smith.</p> <p>12 Q. Okay. Have you talked to him recently?</p> <p>13 A. No.</p> <p>14 Q. Okay. Who else?</p> <p>15 A. Melvin Wynn.</p> <p>16 Q. Where is Mr. Wynn now?</p> <p>17 A. He is still with ALDOT.</p> <p>18 Q. Okay. Who else?</p> <p>19 A. Mr. Jeff Hollinsworth.</p> <p>20 Q. Hollinsworth?</p> <p>21 A. I think that's his last name.</p> <p>22 Q. Okay. Was that a former fellow employee?</p> <p>23 Did you work with him?</p>
<p>122</p> <p>)</p> <p>1 A. Yes.</p> <p>2 Q. If things were done the way that you</p> <p>3 understand that they were done?</p> <p>4 A. Yes.</p> <p>5 Q. Well, I think there was something else I</p> <p>6 forgot about and I forgot to ask it.</p> <p>7 What was Ms. Stacey's role when you</p> <p>8 worked with her? Was she an inspector?</p> <p>9 A. Yes.</p> <p>10 Q. Was she a Chief Inspector?</p> <p>11 A. I'm not sure if that's what she was on</p> <p>12 this last job.</p> <p>13 Q. Okay. Tell me what the difference</p> <p>14 between just being an Inspector and being</p> <p>15 a Chief Inspector would be?</p> <p>16 A. The Chief Inspector pretty much, I guess,</p> <p>17 would delegate the duties.</p> <p>18 Q. Okay.</p> <p>19 A. As well as make sure everything is</p> <p>20 running the way it should be.</p> <p>21 Q. They are in charge of getting it done; is</p> <p>22 that right?</p> <p>23 A. Pretty much.</p>	<p>124</p> <p>1 A. Yes.</p> <p>2 Q. Is he still with ALDOT?</p> <p>3 A. Yes.</p> <p>4 Q. Can you think of anybody else?</p> <p>5 A. Not at this time.</p> <p>6 MR. LYLES: Okay, Jay. I'm</p> <p>7 through.</p> <p>8</p> <p>9 EXAMINATION</p> <p>10</p> <p>11 BY MR. LEWIS:</p> <p>12 Q. (By Mr. Lewis) I've got one a couple of</p> <p>13 things just to clear up regarding your</p> <p>14 contention that you were asked to counsel</p> <p>15 Reeser Knight about the fact that she was</p> <p>16 being watched --</p> <p>17 A. Um-hum.</p> <p>18 Q. -- or somebody was out to get her?</p> <p>19 A. Um-hum.</p> <p>20 Q. Would you describe that for me? Who told</p> <p>21 you to do that, or who asked you to do</p> <p>22 it, and what happened?</p> <p>23 A. Mr. Jackson called me in his office one</p>

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<p>1 morning. Ms. Knight -- before we would 2 leave out, we would normally got in the 3 kitchen around the table, everybody 4 waiting to go out to the site. And 5 Mr. Jackson called me in his office and 6 told me that I needed to pull Ms. Knight 7 to the side and tell her that she needed 8 to watch herself and make sure she was, 9 you know, doing her job, because Mr. 10 Waits was gunning for her. And that -- I 11 kind of finished up the last part of 12 that. "Yes, I know. When he is gunning 13 for someone, he gets his man." And I 14 told him that I would take her to the 15 side and do so, and I did. 16 Q. What was her response to that? 17 A. She pretty much felt that way anyway. 18 Q. This comment that you have said you made 19 to Stacey that I'm not your house nigger. 20 A. Um-hum. 21 Q. What was that all about? What 22 happened? 23 A. We had been -- we was en route to my</p>	<p>1 then I explained what she had done in the 2 stores. And he made the statement to us, 3 "Y'all are supposed to be Christians. 4 You can't conduct yourself like that." I 5 told him, I said, "That's what I was 6 telling her." She kept denying that she 7 had done it. You know, it was just a 8 done deal. That was on that particular 9 occasion. 10 Q. And is it your belief that being treated 11 like a, quote, house nigger is 12 demeaning? 13 A. Yes. 14 Q. I just never heard of that before. 15 Mr. Lyles asked you early on about the 16 manual labor that you did that you say 17 that Stacey did not do. You indicated 18 that Stacey had told you that she wasn't 19 going to do it. Tell me about that 20 conversation. 21 A. We -- I was working still under Jay 22 Wyatt, which is was the other Project 23 Engineer that was in the same office as</p>
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<p>1 father's office. And we had stopped at a 2 couple of places. And the places that we 3 had stopped, she was like, you get this 4 and you do that. And I had been telling 5 her about the second or third store not 6 to do that. The stores that we had gone 7 in, the workers were predominantly black. 8 And I told her not to do that, that it 9 looked demeaning. And I made some 10 statement to her about, you know, "It's 11 not Christian's act" or something. By 12 the time we got to the third place, she 13 really, you know, just let it out doing 14 something of the same nature. So by the 15 time we got to my father's office, we 16 came in and he asked her what we were up 17 to. This was during the time she was 18 trying to meet with him to get with his 19 people to get the loan. And I told -- my 20 exact words were to him, "Before you do 21 anything to help her, tell her to quit 22 treating me like I'm her house nigger." 23 And he asked me why would I say that? And</p>	<p>1 Mr. Jackson. And we really didn't have a 2 lot going on. So Ms. Stacey was working 3 with Todd at the time, and they were -- 4 had a lot of work going on on the job. 5 So I went and asked my supervisor, Jay 6 Wyatt, could I ride out to see if I could 7 be of some help. Because they were a 8 little short-staffed. When we got out 9 there, I went to the Chief Inspector, who 10 was Mr. Feagin, and asked him was there 11 anything I could do to help Mr. Feagin 12 and Mr. Feagin, and Mr. Wynn, I believe, 13 said, "Yes. You can help get these 14 concrete cylinders and get them over to 15 where we drop the cylinders off at." And 16 she made the statement, she said, "I 17 didn't come out here to do no work." She 18 said, "They know I am not going to do 19 it." I said, "We are not doing anything, 20 and they need the help." At that time I 21 asked her did she know where they were 22 supposed to be taken. She told me, "No." 23 She had never taken any over there. I</p>

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<p>129</p> <p>1 made the statement to her that that was 2 really sad that she had been in this 3 field for so long and did not even know 4 where the cylinders were to be taken. I 5 said, "But since they say they need the 6 help, I volunteered to help get the 7 cylinders and we will take them over 8 there." And that's what we did. 9 Then on the next occasion, we 10 had a night job that it was mandatory 11 everybody be here. Be at the job out 12 here at the Mitylene, just before you get 13 to the Mitylene exit. They were having 14 to make cylinders. We were having to 15 make them real quick. And I told her, I 16 said, "Let's go down here and give them a 17 hand." She said, "I'm not getting ready 18 to do any of that." She said, "Just stay 19 up here with me. Because Todd knows I'm 20 not getting ready to do any of that." I 21 said, "Well, they need the help." I 22 walked off and went on to start helping 23 the guys work.</p>	<p>131</p> <p>1 THE COURT REPORTER: Did you guys 2 want to read and sign it? 3 MR. LEWIS: No, we will waive 4 that. 5 (Whereupon, the deposition 6 adjourned at 1:30 o'clock 7 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>
<p>130</p> <p>1 Q. Did you work with her long enough to be 2 able to observe whether or not she ever 3 did any manual labor? 4 A. Yes. 5 Q. And it's your observation that she 6 didn't? 7 A. Yes. 8 Q. Do you know whether or not any of this 9 refusal to do manual labor took place in 10 the presence of Mr. Jackson or Mr. 11 Waits? 12 A. I'm not sure. I don't recall. 13 Q. In other words, were they ever standing 14 around there when she refused to do 15 anything? 16 A. I know that Mr. Jackson was the night on 17 the bridge. Whether or not he heard her 18 make the statement, I'm not sure. I 19 don't remember. 20 MR. LEWIS: That's all I have 21 got. 22 MR. LYLES: I don't have anything 23 else.</p>	<p>132</p> <p>1 CERTIFICATE OF COURT REPORTER. 2 I, DAWN A. GOODMAN, do hereby certify; 3 That I am a Certified Shorthand Reporter 4 of the State of Alabama; 5 That the foregoing pages are a true and 6 correct transcript of the Deposition of 7 Alverene Butler; 8 I further certify that I am not interested 9 in the outcome of said matter nor connected 10 with or related to any of the parties of said 11 matter or to their respective counsel. 12 Dated this 10th day of January, 2007, at 13 Prattville, Alabama. 14 15 16 DAWN A. GOODMAN, CSR 17 State of Alabama 18 19 20 21 22 23</p>

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